By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 422. A bill to provide for Alaska state jurisdiction over small hydroelectric projects (Rept. No. 106–28).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 668. A bill to encourage States to incarcerate individuals convicted of murder, rape, or child molestation; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. BREAUX, Mr. DEWINE, and Mr. GRAMS):

S. 669. A bill to amend the Federal Water Pollution Control Act to ensure compliance by Federal facilities with pollution control requirements; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 670. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 671. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 672. A bill to amend title XIX of the Social Security Act to extend the higher Federal medical assistance percentage for payment for Indian Health service facilities to urban Indian health programs under the Medicaid Program; to the Committee on Finance.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 673. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FITZGERALD:

S. 674. A bill to require truth-in-budgeting with respect to the on- budget trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee report, the other Committee have thirty days to report or be discharged.

By Mr. DASCHLE (for himself, Mr. KERREY, Mr. GRASSLEY, Mr. THOMAS, Mr. JOHNSON, Mr. CONRAD, Mr. BAUCUS, Mr. HARKIN, Mr. DORGAN, Mr. WELLSTONE, Mr. BINGAMAN, Mr. DURBIN, and Mr. FEINGOLD):

S. 675. A bill to increase market transparency in agricultural markets domestically and abroad; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Con. Res. 20. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 2000 through 2009; from the Committee on the Budget; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM:

S. 668. A bill to encourage States to incarcerate individuals convicted of murder, rape, or child molestation; to the Committee on the Judiciary.

AIMEE'S LAW

● Mr. SANTORUM. Mr. President, I rise today to introduce legislation to address the suffering of victims of repeat offenders.

My legislation, ''Aimee's Law,'' is named after Aimee Willard, a college senior from suburban Philadelphia who was raped and murdered by a man released from prison in another state after serving time for a similar offense. This tragedy has made me aware of some very disturbing facts about sentencing and recidivism. For instance, more than 14,000 murders, rapes and sexual assaults on children are committed each year by felons who have been released after serving a sentence for one of those very same crimes. Moreover, convicted murderers, rapists and child molesters who are released from prisons and cross state lines are responsible for sexual assaults on more than 1,200 people annually, including 935 children. Furthermore, recidivism rates for sexual predators are the highest of any category of violent crime. Despite this, the average time served for rape is only five and one half years and the average time served for sexual assault is under four years. Also troubling is the fact that thirteen percent of convicted rapists receive no jail time at all.

With this in mind, I propose to use federal crime fighting funds to create an incentive for states to adopt stricter sentencing and truth-in-sentencing laws. Specifically, Aimee's Law will redirect enough federal crime fighting dollars from a state that has released a murderer, rapist, or child molester to pay the prosecutorial and incarceration costs incurred by a state which has had to reconvict this released felon for a similar crime. Indeed, laws regarding the horrific crimes of murder, rape and sexual assault are best enacted at the state level. However, the federal government bears a responsibility to ensure that federal taxpayer dollars are spent in such a manner as to reflect national views on national issues. This legislation uses federal monies to create incentives without intruding into a state's right and need to legislate on the problem of repeat offenders.

Representative MATT SALMON introduced this legislation last Congress and earlier this Congress. Representative SALMON's bipartisan bill currently has 66 cosponsors, including Majority Whip TOM DELAY and Democratic Caucus Chair MARTIN FROST. Moreover, it has been endorsed by Ms. Gail Willard, Aimee's mother, and numerous organizations such as the National Fraternal Order of Police, the National Rifle Association, the KlassKids Foundation, Justice For All, the National Association of Crime Victims' Rights, the Women's Coalition, and Kids Safe.

I urge my colleagues to support this legislation and help protect our communities from repeat offenders.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as ''Aimee's Law''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DANGEROUS SEXUAL OFFENSE.—The term ''dangerous sexual offense'' means sexual abuse or sexually explicit conduct committed by an individual who has attained the age of 18 years against an individual who has not attained the age of 14 years.

(2) MURDER.—The term ''murder'' has the meaning given that term in section 1111 of title 18, United States Code.

(3) RAPE.—The term ''rape'' means any conduct constituting unlawful sexual intercourse with another individual without the consent of such other individual.

(4) SEXUAL ABUSE.—The term ''sexual abuse'' has the meaning given that term in section 3509 of title 18, United States Code.

(5) SEXUAL CONTACT.—The term ''sexual contact'' has the meaning given that term in section 2246 of title 18, United States Code.

(6) SEXUALLY EXPLICIT CONDUCT.—The term ''sexually explicit conduct'' has the meaning given that term in section 2256 of title 18, United States Code.

SEC. 3. REIMBURSEMENT TO STATES FOR CRIMES COMMITTED BY CERTAIN RELEASED FELONS.

(a) PENALTY.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any 1 of those offenses in another State, the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance funds that have been allocated to but not distributed to the State that convicted such individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(2) MULTIPLE STATES.—In any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any 1 or more of those offenses in more than 1 other State, the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance

funds that have been allocated to but not distributed to each State that convicted such individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(b) STATE APPLICATIONS.—In order to receive an amount transferred under subsection (a), the chief executive of a State shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require, which shall include a certification that the State has convicted an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for 1 of those offenses in another State.

(c) SOURCE OF FUNDS.—Any amount transferred under subsection (a) shall be derived by reducing the amount of Federal law enforcement assistance funds received by the State that convicted such individual of the prior offense before the distribution of the funds to the State. The Attorney General, in consultation with the chief executive of the State that convicted such individual of the prior offense, shall establish a payment schedule.

(d) CONSTRUCTION.—Nothing in this section may be construed to diminish or otherwise affect any court ordered restitution.

(e) EXCEPTION.—This section does not apply if an individual convicted of murder, rape, or a dangerous sexual offense has escaped prison and subsequently been convicted for an offense described in subsection (a).

SEC. 4. COLLECTION OF RECIDIVISM DATA.

(a) IN GENERAL.—Beginning with calendar year 1999, and each calendar year thereafter, the Attorney General shall collect and maintain information relating to, with respect to each State—

(1) the number of convictions during that calendar year for murder, rape, and any sex offense in the State in which, at the time of the offense, the victim had not attained the age of 14 years and the offender had attained the age of 18 years; and

(2) the number of convictions described in paragraph (1) that constitute second or subsequent convictions of the defendant of an offense described in that paragraph.

(b) REPORT.—Not later than March 1, 2000, and on March 1 of each year thereafter, the Attorney General shall submit to Congress a report, which shall include—

(1) the information collected under subsection (a) with respect to each State during the preceding calendar year; and

(2) the percentage of cases in each State in which an individual convicted of an offense described in subsection (a)(1) was previously convicted of another such offense in another State during the preceding calendar year.●

By Mr. COVERDELL (for himself, Mr. BREAUX, Mr. DEWINE, and Mr. GRAMS):

S. 669. A bill to amend the Federal Water Pollution Control Act to ensure compliance by Federal facilities with pollution control requirements; to the Committee on Environment and Public Works.

THE FEDERAL FACILITIES CLEAN WATER COMPLIANCE ACT OF 1999

Mr. COVERDELL. Mr. President, I rise today to introduce legislation with the senior Senator from Louisiana, the senior Senator from Ohio, and the junior Senator from Minnesota. This legislation—the Federal Facilities Clean Water Compliance Act of 1999—will guarantee that the federal government is held to the same full range of enforcement mechanisms available under the Clean Water Act as private entities, states, and localities. Each federal department, agency, and instrumentality will be subject to and comply with all Federal, State, and local requirements with respect to the control and abatement of water pollution and management in the same manner and extent as any person is subject to such requirements, including the payment of reasonable service charges.

It has been over twenty-six years since the enactment of the Clean Water Act. This Act has been an effective tool in improving the quality of our nation's rivers, lakes, and streams. Over that period of time, however, states have not had the ability to impose certain fines and penalties against federal agencies for violations of the Clean Water Act. This is a double standard that should not be continued.

In 1972, Congress included provisions on federal facility compliance with our nation's water pollution laws in section 313 of the Clean Water Act. Section 313 called for federal facilities to comply with all federal, state, and local water pollution requirements. However, in 1992, the United States Supreme Court ruled in U.S. Dept. of Energy v. Ohio, that States could not impose certain fines and penalties against federal agencies for violations of the Clean Water Act and the Resource Conservation Recovry Act (RCRA). Because of this decision, the Federal Facilities Compliance Act (H.R. 2194) was enacted to clarify that Congress intended to waive sovereign immunity for agencies in violation of RCRA. Federal agencies in violation of the RCRA are now subject to State levied fines and penalties. However, this legislation did not address the Supreme Court's decision with regard to the Clean Water Act. The Federal Facilities Clean Water Compliance Act of 1999 makes it unequivocally clear that the federal government waives its claim to sovereign immunity in the Clean Water Act.

The federal government owns hundreds of thousands of buildings, located on millions of acres of land, none of which have to abide by the same standards as a private entity does under the Clean Water Act. This legislation simply ensures that the federal government lives by the same rules it imposes on everyone else.

I would like to thank Senator BREAUX, Senator DEWINE, and Senator GRAMS for cosponsoring this important legislation, and look forward to working with them and my other colleagues in the United States Senate on its speedy consideration.

Mr. BREAUX. Mr. President, I'm pleased to join Senator COVERDELL, Senator DEWINE and Senator GRAMS in introducing the ''Federal Facilities Clean Water Compliance Act of 1999.''

My primary reason for sponsoring the bill is to make the federal Clean Water Act equitable by requiring that it apply to and be enforced against the federal government.

Currently, states, local governments and the private sector do not have immunity from the act's enforcement. By the same principle, the federal government should not be granted such immunity from the clean water statute and this bill provides that parity.

The bill also provides that the federal government would be subject to all the same enforcement mechanisms that apply to states, local governments and the private sector under the Clean Water Act.

Fairness, safety, public health and environmental protection all dictate that Federal agencies should be held to the same standards for water pollution prevention and control as apply to states, local governments and the private sector.

Equity is ensured by our bill because all levels of government and the private sector would be treated the same under the Clean Water Act's enforcement programs. No one would be allowed immunity.

To paraphrase a well-known adage, what's good for states, local governments and the private sector in terms of clean water should be good for the federal government.

In addition to the provisions stated previously, the bill reflects the adage's fairness principle in another fashion.

The bill would hold the federal government accountable to comply not only with its own clean water statute, but also with state and local clean water laws. Again, equity would be upheld. And, safety, public health and environmental protection would be strengthened.

Other provisions are contained as well in the legislation which Senator COVERDELL, Senator DEWINE, Senator GRAMS and I are introducing today. For example, the EPA administrator, the Secretary of the Army and the Secretary of Transportation would be authorized to pursue administrative enforcement actions under the Clean Water Act against any non-complying federal agencies. It also includes provisions for federal employees' personal liability under the act's civil and criminal penalty provisions and a requirement that the federal government pay reasonable service charges when complying with clean water laws.

Over the years, the United States has made dramatic advances in protecting the environment as a result of the Clean Water Act. We have all benefitted as a result.

Today, I encourage other Senators to join Senator COVERDELL, Senator DEWINE, Senator GRAMS and me as cosponsors of the bill to bring equity to the clean water program and to make possible the expansion of its public and private benefits.

Mr. DEWINE. Mr. President, I rise today to join Senators COVERDELL, BREAUX, and GRAMS in introducing the Federal Facilities Clean Water Compliance Act of 1999. This legislation would

hold the Federal Government accountable under the Nation's Federal water laws. Today, states, local governments and the private sector must all comply with each and every Federal, State, and local water requirement. The Federal Government does not.

Although Congress included provisions requiring Federal facilities to comply with the Nation's water pollution laws in 1972, the United States Supreme Court ruled that State governments could not impose certain fines and penalties against Federal agencies for violations of the Clean Water Act. While other legislation has forced the Federal Government to comply with other environmental statutes, Congress has not yet brought Federal facilities into compliance with the requirements on the prevention and control of water pollution.

This legislation, however, guarantees that the Federal Government is (1) held to the same enforcement mechanisms under the Clean Water Act as private entities, states, and localities; (2) complies with all of the Federal, State, and local requirements on the prevention and control of water pollution; and (3) is responsible for the payment of reasonable service charges.

The Clean Water Act celebrated its twenty-fifth anniversary two years ago. As a result, the entire nation has benefitted from cleaner water. In the interests of fairness, the Federal Government should not be granted immunity from the Nation's clean water laws any longer. For the sake of fairness, public safety and health, and environmental protection, the Federal Government should be held to the same standards for water pollution prevention and control as states, local governments and the private sector.

Mr. GRAMS. Mr. President, I rise today in support of the Federal Facilities Clean Water Compliance Act of 1999. I would like to thank Senator COVERDELL for bringing this important legislation forward again in the 106th Congress.

Quite simply, this legislation would force federal agencies to comply with the provisions of the Clean Water Act—something I believe most citizens assume already takes place. Unfortunately, when Congress passed the Clean Water Act in 1972, it left an out for federal agency compliance with the law by allowing them to claim ''sovereign immunity'' for protection against state actions or fines. So when federal agencies are not complying with provisions of the Clean Water Act, they can state in court that they are above the law.

I have always believed that the government must live under the same rules that it forces everyone else to live under. Any government which attempts to subvert the law or hide from responsibility by claiming ''sovereign immunity'' from environmental protection requirements, is a government that is above the people it serves, rather than a servant of the people. This legislation would reverse that trend, and force the federal government to waive sovereign immunity when a state brings an action under the Clean Water Act. And the bill ensures that any money that state receives as a result of such an action is placed back into programs that protect the environment or defray the costs of environmental protection or enforcement.

I believe it is important that federal agencies comply with the environmental standards Congress mandates everyone else must comply. By passing the legislation we are offering today, we can restore a degree of certainty to the American people and to our states and localities that their federal government is not exempt from protecting the environment and that their federal government is not above the law. That is why I am proud to cosponsor this legislation. I look forward to working with Senators COVERDELL, DEWINE, and BREAUX over the coming weeks and months in bringing this matter before the full Senate for debate and a vote.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 670. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

TAX CODE LEGISLATION

Mr. JEFFORDS. Mr. President, today I am introducing a bill that will eliminate unnecessary distinctions drawn by the Internal Revenue Code in the tax treatment of payments received by people who open their homes to care for foster children and adults. Currently, the law allows an exclusion from income for foster care payments received by some providers, while denying eligibility for the exclusion to other providers. My bill expands the law's exclusion for foster care payments. By simplifying the tax treatment of foster care payments, the bill will remove the inequities and uncertainties inherent in the current tax treatment.

Under current law, foster care providers are permitted to deduct expenditures incurred for the care of foster individuals. Providers must maintain detailed records to substantiate these deductions. In lieu of this detailed record keeping, section 131 of the Internal Revenue Code allows certain foster care providers to exclude from income the payments they receive for providing foster care. Eligibility for this exclusion depends upon a complicated analysis of three factors: the age of the person in foster care; the type of foster care placement agency; and the source of the foster care payments. For children under age 19 in foster care, section 131 permits providers to exclude payments when a State (or one of its political subdivisions) or a charitable tax-exempt placement agency places the individual in foster care and makes the foster care payments. For persons age 19 and older, section 131 permits providers to exclude foster care payments only when a State (or one of its political subdivisions) places the individual and makes the payments.

This bill will simplify these anachronistic tax rules by expanding the tax code's exclusion to include foster care payments for all persons in foster care, regardless of age. The exclusion will also be available when the foster care placement is made by a private foster care placement agency and even when foster care payments are received through a private foster care placement agency, rather than directly from a State (or one of its political subdivisions). To ensure appropriate oversight, the bill requires that the placement agency be either licensed by, or certified by, a State or a political subdivision thereof.

A qualified foster care payment under this bill must be made pursuant to a foster care program of a State or a political subdivision thereof. My intention is for this bill to cover the wide variety of foster care programs developed by States, some of which are part of larger State programs designed to provide a variety of home- and community-based services to individuals. These foster care programs place children—and in some cases adults—in homes of unrelated families who provide foster care on a full-time basis. Families providing foster care give those in their care the daily support and supervision typically given to a family member. Like traditional families, foster care providers ensure that foster children or adults have a healthy physical environment, get routine and emergency medical care, are adequately clothed and fed, and have satisfying leisure activities. Foster families provide those under their care with intellectual stimulation and emotional support that is all too often lacking in institutional or large congregate settings.

In some States, the State itself (or a political subdivision) administers both child and adult foster care programs. Many States, however, are increasingly entrusting administration of these programs to private placement agencies, approved through licensing or certification procedures, or government-designated intermediary tax-exempt organizations. Through the approval process, private placement agencies are accountable for their use of funds and for the quality of services they provide. The bill is intended to cover both those governmental foster care programs funded solely by State or political subdivision monies, and—especially in the case of adult foster care—programs funded by the federal government, typically through a State's Medicaid Home and Community-Based Waiver program approved by the federal government under 42 U.S.C. section 1396n(c).

While foster care for children has been in existence for decades, foster care for adults is a more recent phenomenon. Sometimes referred to as

''host homes'' or ''developmental homes,'' adult foster care facilities have proven to be an effective alternative to institutional care for adults with disabilities. My home State of Vermont has been at the forefront of efforts to develop individualized alternatives to institutional care. In 1993, Vermont closed the state institution for people with developmental disabilities. Vermont has chosen to rely on foster families, so that people with developmental disabilities can live in homes and participate in the regular routines of life that most of us take for granted. The foster care model has provided people with disabilities a cost-effective opportunity for successful lives in communities, with valued relationships with their foster families that have developed over time.

Vermont authorizes local developmental service providers to act as placement agencies and to contract with families willing to provide foster care in their homes. The tax law's disparate tax treatment of foster care payments impedes these types of arrangements. Persons providing foster care for individuals placed in their homes by the government can exclude foster care payments from income. For providers receiving payments from private agencies, however, the exclusion is not available (unless the individual in foster care is under age 19 and the placement agency is a nonprofit organization). Because of the complexity of current law, providers often receive conflicting advice from tax professionals regarding the proper tax treatment of foster care payments they receive. In addition, these rules discourage willing families from providing foster care in their homes to persons placed by private placement agencies, thus reducing the availability of care alternatives.

Mr. President, this bill will advance the development of family-based foster care services, a highly valued alternative to institutionalization. I urge my colleagues to support it.

● Mr. DODD. Mr. President, I am pleased to again introduce with my colleague, Senator JEFFORDS, a critically important piece of legislation that will ensure fair treatment for individuals and families who provide invaluable care to foster children and adults.

Foster care providers are currently permitted to deduct expenditures made while caring for foster individuals if detailed expense records are maintained to support such deductions. However, section 131 of the Internal Revenue Code permits certain foster care providers to exclude, from taxable income, payments they receive to care for foster individuals. Who specifically is available for this exclusion depends upon a complicated analysis of three factors: the age of the individual receiving foster care services, the type of foster care placement agency, and the source of the foster care payments.

Section 131 permits foster care providers to exclude payments from taxable income only when a state, or one of its political divisions, or a charitable tax exempt placement agency places the individual and makes the foster care payments for children less than 19 years of age. However, for adults over the age of 19, section 131 permits foster care providers to exclude payments from taxable income only when a state, or one of its divisions, places the individual and provides the foster care payments.

Mr. President, I believe we must move to eliminate the inequities and needless complexities of the current system. Because states and localities across the country are increasingly relying on private agencies to arrange for foster care services for both children and adults, this inequity will only become more apparent. Presently, some foster care providers are understandably reluctant to contract with private placement agencies because current law requires such providers to include foster care payments as taxable income. In contrast, current law permits providers who care for foster individuals placed in their homes by government agencies to exclude such payments from taxable income. Current law, therefore, discourages families from providing foster care on behalf of private placement agencies, thereby reducing badly-needed foster care opportunities for individuals requiring assistance.

The bill Senator JEFFORDS and I introduce today will greatly simplify the outdated tax rules applicable to foster care payments. Under our proposed legislation, foster care providers would be able to avoid onerous record keeping by excluding from income any foster care payment received regardless of the age of the individual receiving foster care services, the type of agency that placed the individual, or the source of foster care payments. To ensure appropriate oversight, this bill will require the placement agency to be licensed either by, or under contract with, a state or one of its political divisions.

Mr. President, this legislation accomplishes what current law does not—consistent and fair treatment of families and individuals who open their homes and their hearts to foster children and adults. While this modest proposal was unfortunately not adopted in the last Congress, it is my hope that foster parents may soon realize equitable treatment with the passage of this important legislation.●

By Mr. LEAHY:

S. 671. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

MADRID PROTOCOL IMPLEMENTATION ACT

Mr. LEAHY. Mr. President, I am pleased to introduce implementing legislation for the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Protocol). Last Congress, I introduced an identical bill, S. 2191 which unfortunately the Senate did not consider.

This bill is part of my ongoing effort to update American intellectual property law to ensure that it serves to advance and protect American interests both here and abroad. The Protocol would help American businesses, and especially small- and medium-sized companies, protect their trademarks as they expand into international markets. Specifically, this legislation will conform American trademark application procedures to the terms of the Protocol in anticipation of the U.S.'s eventual ratification of the treaty. Ratification by the United States of this treaty would help create a ''one stop'' international trademark registration process, which would be an enormous benefit for American businesses. This bill is one of many measures I have introduced and supported over the past few years to ensure that American trademark holders receive strong protection in today's world of changing technology and complex international markets.

When I introduced this legislation last year, I also cosponsored S. 2193, legislation to implement the Trademark Law Treaty. S. 2193 simplified trademark registration requirements around the world by establishing a list of maximum requirements which Treaty member countries can impose on trademark applicants. The bill passed the Senate on September 17, 1998, and was signed by the President on October 30, 1998. I am proud of this legislation since all American businesses, and particularly small American businesses, will benefit as a result.

I have in the past supported legislation critical to keeping our trademark laws up-to-date. For example, last year I introduced S. 1727, which authorized a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights. This bill became law as part of the Next Generation Internet Research Act, S. 1609, which was signed into law on October 28, 1998. I also supported the Federal Trademark Dilution Act of 1995, enacted in the 104th Congress to provide intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality.

Together, these measures represent significant steps in our efforts to ensure that American trademark law adequately serves and promote American interests.

The legislation I introduce today would ease the trademark registration burden on small- and medium-sized businesses by enabling businesses to obtain trademark protection in all signatory countries with a single trademark application filed with the Patent and Trademark Office. Currently, in order for American companies to protect their trademarks abroad, they

must register their trademarks in each and every country in which protection is sought. Registering in multiple countries is a time-consuming, complicated and expensive process—a process which places a disproportionate burden on smaller American companies seeking international trademark protection.

Since 1891, the Madrid Agreement Concerning the International Registration of Marks (Agreement) has provided an international trademark registration system. However, prior to adoption of the Protocol, the U.S. declined to join the Agreement because it contained terms deemed inimical to American intellectual property interests. In 1989, the terms of the Agreement were modified by the Protocol, which corrected the objectionable terms of the Agreement and made American participation a possibility. For example, under the Protocol, applications for international trademark extension can be completed in English; formerly, applications were required to be completed in French. It should be noted that the Protocol would not require substantive changes to American trademark law, but merely to certain procedures for registering trademarks. This implementing legislation is identical to legislation that passed the House last year and has been reintroduced this year as H.R. 769, by Representatives HOWARD COBLE (R-NC) and HOWARD BERMAN (D-CA). Indeed, H.R. 769 has already been reported favorably by the House Judiciary Subcommittee on Courts and Intellectual Property.

To date, the Administration has resisted accession to the treaty because of voting rights disputes with the European Union. The EU has sought to retain an additional vote for itself as an intergovernmental entity, in addition to the votes of its member states. I support the Administration's efforts to negotiate a treaty based upon the equitable and democratic principle of one-state, one-vote. However, in anticipation of the eventual resolution of this dispute, the Senate has the opportunity to act now to make the technical changes to American trademark law so that once this voting dispute is satisfactorily resolved and the U.S. accedes to the Protocol, ''one-stop'' international trademark registration can become an immediate reality for all American trademark applicants.

I ask unanimous consent that a copy of the bill and the sectional analysis be placed in the RECORD.

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

S. 671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Madrid Protocol Implementation Act''.

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, as amended (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'') is amended by adding after section 51 the following new title:

''TITLE XII—THE MADRID PROTOCOL

''SEC. 60. DEFINITIONS.

''For purposes of this title:

''(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

''(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

''(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

''(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or intergovernmental organization that is a party to the Madrid Protocol.

''(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

''(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

''(A) the applicant or holder has a bona fide intention to use the mark in commerce,

''(B) the person making the declaration believes that person, or the firm, corporation, or association in whose behalf that person makes the declaration, to be entitled to use the mark in commerce, and

''(C) no other person, firm, corporation, or association, to the best of such person's knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

''(7) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

''(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

''(9) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

''(10) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

''(11) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

''(12) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

''(13) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

''(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

''(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

''(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks, or

''(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

''(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

''(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

''SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

''The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

''(1) is a national of the United States,

''(2) is domiciled in the United States, or

''(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Commissioner.

''SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

''Upon the filing of an application for international registration and payment of the prescribed fees, the Commissioner shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Commissioner shall transmit the international application to the International Bureau.

''SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

''With respect to an international application transmitted to the International Bureau under section 62, the Commissioner shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of

the goods and services listed in the international registration—

''(1) within 5 years after the international registration date; or

''(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

''SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

''The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

''(1) directly with the International Bureau, or

''(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Commissioner.

''SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

''(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

''(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

''SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

''(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

''(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

''(1) The international registration date, if the request for extension of protection was filed in the international application.

''(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

''(3) The date of priority claimed under section 67.

''SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

''The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

''(1) the international registration contained a claim of such priority; and

''(2)(A) the international application contained a request for extension of protection to the United States, or

''(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

''SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

''(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Commissioner shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

''(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

''(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

''(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

''(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Commissioner shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

''(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Commissioner shall transmit to the International Bureau any of the following that applies to such request:

''(A) A notification of refusal based on an examination of the request for extension of protection.

''(B) A notification of refusal based on the filing of an opposition to the request.

''(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

''(2) If the Commissioner has sent a notification of the possibility of opposition under paragraph (1)(C), the Commissioner shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

''(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Commissioner after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

''(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Commissioner shall issue a certificate of extension of protection pursuant to the request.

''(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.

''SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

''(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Commissioner shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

''(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

''(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register, and

''(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

''SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

''(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Commissioner shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

''(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

''(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which

the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed under section 1 or 44.

''SEC. 71. AFFIDAVITS AND FEES.

''(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Commissioner—

''(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; and

''(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, and at the end of each 10-year period thereafter, unless—

''(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; or

''(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Commissioner.

''(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

''SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

''An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

''SEC. 73. INCONTESTABILITY.

''The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Commissioner issues the certificate of the extension of protection under section 69, except as provided in section 74.

''SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

''An extension of protection shall convey the same rights as an existing registration for the same mark, if—

''(1) the extension of protection and the existing registration are owned by the same person;

''(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

''(3) the certificate of extension of protection is issued after the date of the existing registration.''.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

MADRID PROTOCOL IMPLEMENTATION ACT—SECTION BY SECTION ANALYSIS

Section 1. Short Title

This section provides a short title: the ''Madrid Protocol Implementation Act.''

Section 2. Amendments to the Trademark Act of 1946

This section amends the ''Trademark Act of 1946'' by adding a new Title XII with the following provisions:

The owner of a registration granted by the Patent and Trademark Office (PTO) or the owner of a pending application before the PTO may file an international application for trademark protection at the PTO.

After receipt of the appropriate fee and inspection of the application, the PTO Commissioner is charged with the duty of transmitting the application to the WIPO International Bureau.

The Commissioner is also obliged to notify the International Bureau whenever the international application has been ''. . . restricted, abandoned, canceled, or has expired . . .'' within a specified time period.

The holder of an international registration may request an extension of its registration by filing with the PTO or the International Bureau.

The holder of an international registration is entitled to the benefits of extension in the United states to the extent necessary to give effect to any provision of the Protocol; however, an extension of an international registration shall not apply to the United States if the PTO is the office of origin with respect to that mark.

The holder of an international registration with an extension of protection in the United States may claim a date of priority based on certain conditions.

If the PTO Commissioner believes that an applicant is entitled to an extension of protection, he or she publishes the mark in the ''Official Gazette'' of the PTO. This serves notice to third parties who oppose the extension. Unless an official protest conducted pursuant to existing law is successful, the request for extension may not be refused. If the request for extension is denied, however, the Commissioner notifies the International Bureau of such action and sets forth the reason(s) why. The Commissioner must also apprise the International Bureau of other relevant information pertaining to requests for extension within the designated time periods.

If an extension for protection is granted, the Commissioner issues a certificate attesting to such action, and publishes notice of the certificate in the ''Gazette.'' Holders of extension certificates thereafter enjoy protection equal to that of other owners of registration listed on the Principal Register of the PTO.

If the International Bureau notifies the PTO of a cancellation of some or all of the goods and services listed in the international registration, the Commissioner must cancel an extension of protection with respect to the same goods and services as of the date on which the international registration was canceled. Similarly, if the International Bureau does not renew an international registration, the corresponding extension of protection in the United States shall cease to be valid. Finally, the holder of an international registration canceled in whole or in part by the International Bureau may file an application for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration.

The holder of an extension of protection must, within designated time periods and under certain conditions, file an affidavit setting forth the relevant goods or services covered an any explanation as to why their nonuse in commerce is related to ''special circumstances,'' along with a filing fee.

The right to an extension of protection may be assigned to a third party so long as the individual is a national of, or is domiciled in, or has a ''bona fide'' business located in a country that is a member of the Protocol; or has such a business in a country that is a member of an intergovernmental organization (like the E.U.) belonging to the Protocol.

An extension of protection conveys the same rights as an existing registration for the same mark if the extension and existing registration are owned by the same person, and extension of protection and the existing registration cover the same goods or services, and the certificate of extension is issued after the date of the existing registration.

Section 3. Effective Date

This section states that the effective date of the act shall commence on the date on which the Madrid Protocol takes effect in the United States.

By Mr. INOUYE:

S. 672. A bill to amend title XIX of the Social Security Act to extend the higher Federal medical assistance percentage for payment for Indian Health service facilities to urban Indian health programs under the Medicaid Program; to the Committee on Finance.

LEGISLATION TO EXTEND THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE TO URBAN INDIAN HEALTH PROGRAMS

● Mr. INOUYE. Mr. President, I rise today to introduce legislation that would correct an inequity in the current reimbursement rates for health care services provided to low-income Medicaid-eligible American Indians and Alaska Natives through the Indian Health Service (IHS) urban Indian health care programs.

Mr. President, currently, a 100 percent Federal medical assistance percentage (FMAP) applies for the cost of services provided to Medicaid beneficiaries by a hospital, a clinic, or other IHS facility, under the condition that the facilities are operated by the IHS, a tribe, or tribal organization. IHS facilities which are predominately located in rural areas are eligible to receive the 100 percent FMAP, while similar services provided through IHS programs located in urban areas receive only 50–80 percent reimbursement depending on the type of service provided.

This legislation would address this inequity by extending the Federal medical assistance percentage to payments for IHS facilities to urban Indian

health care programs under the Medicaid program, and informal estimates indicate that equalizing the FMAP for IHS programs would cost $17 million over the next 5 years.

With few employment opportunities in tribal reservation communities, most Indians are literally forced to relocate and seek employment in cities, and as a result, roughly half of the total American Indian/Alaska Native population is now residing in urban areas. With that in mind, equalizing the Federal medical assistance percentage for health care provided to Medicaid-eligible Indians through the IHS urban Indian health care programs is essential.

Mr. President, I urge my colleagues to support this legislation.●

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 673. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

THE OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 1999

Mr. LEAHY. Mr. President, today I am re-introducing the ''Omnibus Mercury Emissions Reduction Act of 1999,'' a bill that I originally introduced during the 105th Congress. I am pleased that Senator SNOWE has agreed to cosponsor the bill.

As United States Senators, we all have a responsibility as stewards for the nation and society we will be entrusting to our children and grandchildren. I became a grandfather for the first time a little over a year ago, and this duty has never been more real for me. The ''Omnibus Mercury Emissions Reduction Act of 1999'' is a comprehensive plan to eliminate mercury—one of the last remaining poisons without a specific control strategy—from our air, our waters and our forests. By eliminating mercury pollution from our natural resources, we will protect our nation's most important resource: the young Americans of today and tomorrow.

As we learned from the campaign to eliminate lead, our children are at the greatest risk from these poisons. How many future scientists, doctors, poets, and inspiring teachers have we lost in the last generation because of the toxics they have been exposed to in the womb or in early childhood? Just as with lead, we know that mercury has much graver effects on children at very low levels than it does on adults. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago. That figure by itself is a tribute to the success of the original Clean Air Act. We should strive to achieve no less with mercury.

Mercury is toxic in every known form and has utterly no nutritional value. At high enough levels it poisons its victims in terribly tragic ways. In Japan, victims of mercury poisoning came to be known as suffering from Minimata Disease, which took its name from the small Minimata Bay in which they caught fish for their food.

For years, the Chisso Company, a chlor-alkali facility that manufactured chlorine, discharged mercury contaminated pollution in the bay, which was consumed by fish and then by people. Their disease was terribly painful, causing tremors and paralysis, and sometimes leading to death. Thankfully, wholesale discharges of mercury like those in Minimata Bay have been eliminated. But a torrent of air pollution still needlessly dumps this heavy metal into the air of North America, poisoning lakes and streams, forests and fields and—most importantly—our children. Mercury control needs to be a priority now because of the neurological damage it causes.

This is not to say that men, women and children are doubled over in agony as they were three decades ago in Japan. Mercury pollution today is more subtle, but it is no less insidious. Wildlife are also being harmed. Endangered Florida panthers have been fatally poisoned by mercury. Loons are endangered as well. In Lake Champlain we have fish advisories for walleye, trout and bass even though we have relatively few mercury emissions within our own state borders. There are now 40 states that have issued fishing advisories for mercury; Vermont's and those of 10 other states cover all of the water bodies in these states. Nearly 1,800 water bodies nationwide have mercury fishing advisories posted. The number of water bodies with mercury advisories has doubled since 1993.

My fellow Vermonters are exposed to mercury and other pollutants that blow across Lake Champlain and the Green Mountains every day from other regions of the country. The waste incinerators and coal-fired power plants are not accountable to the people of Vermont, and therefore a federal role is needed to control the pollution.

That is part of the reason voters send us here. They expect Members of the Congress to determine what is necessary to protect the public health and the environment nationally, then to take the appropriate action. And in many cases, perhaps most, we have done that. But not when it comes to mercury.

Mr. President, what I propose is that we put a stop to this poisoning of America. It is unnecessary, and it is wrong. Mercury can be removed from manufactured products, and much of that has been done. Mercury can be removed from coal-fired powerplants, and now that should be done. With states deregulating their utility industries, this is the right moment and the best opportunity we will have for a generation to make sure powerplants begin to internalize the costs of their pollution. We cannot afford to give them a free ride into the next century at the expense of our children's health.

So, too, should mercury be purged from other known sources such as chlor-alkali plants, medical waste incinerators, municipal combustion facilities, large industrial boilers, landfills, and lighting fixtures.

My bill directs EPA to set mercury emission standards for the largest sources of mercury emissions. The bill requires reducing emissions by 95 percent, but it also lets companies choose the best approach to meet the standard at their facility whether through the use of better technology, cleaner fuels, process changes, or product switching.

The bill also gives people the right-to-know about mercury emissions from the largest sources. That should be the public's right. To facilitate the public's right-to-know and getting mercury containing items out of the waste streams that feed municipal combustion facilities, it also requires labeling of mercury containing items such as fluorescent light bulbs, batteries, pharmaceuticals. The bill also begins a phaseout of mercury from products, with exceptions possible for demonstrated essential uses.

We will hear a lot of rhetoric about how much implementing mercury reduction steps will cost. In advance of those complaints I want to make two points. First, when we were debating controls for acid rain we heard a lot about the enormous cost of eliminating sulphur dioxide. But what we learned from the acid rain program is that when you give industry a financial incentive to clean up its act, they will find the cheapest way. More often than not, assertions about the cost of controlling pollution grossly overestimate and distort reality. If you look at electricity prices of major utilities since the acid rain program was implemented, their rates have remained below the national average and some have actually decreased—even without adjusting for inflation. The mercury controls on coal-fired power plants contained in my bill may add a little over $2 dollars per month to the electric bill of the average residential consumer who receives power from a coal-fired plant. So, for the monthly cost of a slice of pizza or a hamburger and fries we can rein in the more than 50 tons of mercury that are being pumped into our air from power plants.

Secondly, and most importantly, the bottom line here should not be the cost of controlling mercury emissions, but the cost of not controlling mercury. While we may not be able to calculate how many Einstein's we have lost, if we lose one the price has been too high.

Let us make controlling mercury pollution one of our first environmental legacies of the 21st Century.

Mr. President, I ask unanimous consent that the text of the bill and an

overview of the legislation be printed in the RECORD.

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

S. 673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Omnibus Mercury Emissions Reduction Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) on the basis of available scientific and medical evidence, exposure to mercury and mercury compounds (collectively referred to in this Act as ''mercury'') is of concern to human health and the environment;

(2) pregnant women and their fetuses, women of childbearing age, children, and individuals who subsist primarily on fish, are most at risk for mercury-related health impacts such as neurotoxicity;

(3) although exposure to mercury occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of drinking water, and food sources other than fish, that are contaminated with methyl mercury;

(B) dermal uptake through soil and water; and

(C) inhalation of contaminated air;

(4) on the basis of the report entitled ''Mercury Study Report to Congress'' and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), the major sources of mercury emissions in the United States are, in descending order of volume of emissions—

(A) fossil fuel-fired electric utility steam generating units;

(B) solid waste incineration units;

(C) coal- and oil-fired commercial and industrial boiler units;

(D) medical waste incinerators;

(E) hazardous waste combustors;

(F) chlor-alkali plants; and

(G) Portland cement plants;

(5)(A) the Environmental Protection Agency report described in paragraph (4), in conjunction with available scientific knowledge, supports a plausible link between mercury emissions from anthropogenic combustion and industrial sources and mercury concentrations in air, soil, water, and sediments;

(B) the Environmental Protection Agency has concluded that the geographical areas that have the highest annual rate of deposition of mercury in all forms are—

(i) the southern Great Lakes and Ohio River Valley;

(ii) the Northeast and southern New England; and

(iii) scattered areas in the South, with the most elevated deposition occurring in the Miami and Tampa areas and 2 areas in northeast Texas; and

(C) analysis conducted before the date of the Environmental Protection Agency report demonstrates that mercury is being deposited into the waters of Canada;

(6)(A) the Environmental Protection Agency report described in paragraph (4) supports a plausible link between mercury emissions from anthropogenic combustion and industrial sources and concentrations of methyl mercury in freshwater fish;

(B) in 1997, 39 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993;

(C) the total number of mercury advisories increased from 899 in 1993 to 1,675 in 1996, an increase of 86 percent; and

(D) the United States and Canada have agreed on a goal of virtual elimination of mercury from the transboundary waters of the 2 countries;

(7) the presence of mercury in consumer products is of concern in light of the health consequences associated with exposure to mercury;

(8) the presence of mercury in certain batteries and fluorescent light bulbs is of special concern, particularly in light of the substantial quantities of used batteries and fluorescent light bulbs that are discarded annually in the solid waste stream and the potential for environmental and health consequences associated with land disposal, composting, or incineration of the batteries and light bulbs; and

(9) a comprehensive study of the use of mercury by the Department of Defense would significantly further the goal of reducing mercury pollution.

(b) PURPOSES.—The purposes of this Act are—

(1) to greatly reduce the quantity of mercury entering the environment by controlling air emissions of mercury from fossil fuel-fired electric utility steam generating units, coal- and oil-fired commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants;

(2) to reduce the quantity of mercury entering solid waste landfills, incinerators, and composting facilities by promoting recycling or proper disposal of used batteries, fluorescent light bulbs, and other products containing mercury;

(3) to increase the understanding of the volume and sources of mercury emissions throughout North America;

(4) to promote efficient and cost-effective methods of controlling mercury emissions;

(5) to promote permanent, safe, and stable disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(6) to reduce the use of mercury in cases in which technologically and economically feasible alternatives are available;

(7) to educate the public concerning the collection, recycling, and proper disposal of mercury-containing products;

(8) to increase public knowledge of the sources of mercury exposure and the threat to public health, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, children, and individuals who subsist primarily on fish;

(9) to significantly decrease the threat to human health and the environment posed by mercury; and

(10) to ensure that the health of sensitive populations, whether in the United States, Canada, or Mexico, is protected, with an adequate margin of safety, against adverse health effects caused by mercury.

SEC. 3. MERCURY EMISSION STANDARDS FOR FOSSIL FUEL-FIRED ELECTRIC UTILITY STEAM GENERATING UNITS.

Section 112 of the Clean Air Act (42 U.S.C. 7412) is amended—

(1) by redesignating subsection (s) as subsection (x); and

(2) by inserting after subsection (r) the following:

''(s) MERCURY EMISSION STANDARDS FOR ELECTRIC UTILITY STEAM GENERATING UNITS.—

''(1) IN GENERAL.—

''(A) REGULATIONS.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations to establish standards for the emission of mercury and mercury compounds (collectively referred to in this subsection as 'mercury') applicable to existing and new electric utility steam generating units.

''(B) PERMIT REQUIREMENT.—Not later than 2 years after the date of enactment of this subparagraph, each electric utility steam generating unit shall have an enforceable permit issued under title V that complies with this subsection.

''(C) PROCEDURES AND SCHEDULES FOR COMPLIANCE WITH STANDARDS.—Each electric utility steam generating unit shall achieve compliance with the mercury emission standards established under subparagraph (A) in accordance with the procedures and schedules established under subsection (i).

''(2) STANDARDS AND METHODS.—

''(A) MINIMUM REQUIRED EMISSION REDUCTION.—Subject to subparagraph (C), the emission standards established under paragraph (1)(A) shall require that each electric utility steam generating unit reduce its annual poundage of mercury emitted, as calculated under subparagraph (B), below its mercury emission baseline, as calculated under paragraph (3)(D), by not less than 95 percent.

''(B) CALCULATION OF ANNUAL POUNDAGE OF MERCURY EMITTED.—

''(i) IN GENERAL.—For each electric utility steam generating unit (referred to in this subparagraph as a 'unit') and each calendar year, the Administrator shall calculate the poundage of mercury emitted per unit for the calendar year, which shall be equal to the product obtained by multiplying—

''(I) the fuel consumption determined under clause (ii) for the unit for the calendar year; by

''(II) the average mercury content determined under clause (iii) for the unit for the calendar year.

''(ii) FUEL CONSUMPTION.—The fuel consumption for a unit shall be equal to the annual average quantity of millions of British thermal units (referred to in this subparagraph as 'mmBtu's') consumed by the unit during the calendar year, as submitted to the Secretary of Energy on Department of Energy Form 767.

''(iii) AVERAGE MERCURY CONTENT.—

''(I) SPECIFIC DATA.—The average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy that characterize the average mercury content of the fuel consumed by the unit during the calendar year.

''(II) ESTIMATED DATA.—If specific mercury content data from the Department of the Interior and the Department of Energy are not available, the average mercury content shall be estimated using the average mercury content of fossil fuel from mines or wells in the geographic region of each mine or well that supplies the unit.

''(C) EMISSION TRADING WITHIN A GENERATING STATION.—

''(i) IN GENERAL.—For the purpose of this subsection, taking into consideration the cost of achieving the emission reduction, the Administrator may allow emission trading among the electric utility steam generating units contained in a power generating station at a single site if the aggregate annual reduction from all such units at the power generating station is not less than 95 percent.

''(ii) UNDERLYING DATA.—In carrying out clause (i), the Administrator shall use mercury emission data calculated under paragraph (3)(D).

''(D) CONTROL METHODS.—For the purpose of achieving compliance with the emission standards established under paragraph (1)(A), the Administrator shall authorize methods of control of mercury emissions, including measures that—

''(i) reduce the volume of, or eliminate emissions of, mercury through a process change, substitution of material or fuel, or other method;

''(ii) enclose systems or processes to eliminate mercury emissions;

''(iii) collect, capture, or treat mercury emissions when released from a process, stack, storage, or fugitive emission point;

''(iv) consist of design, equipment, work practice, or operational standards (including requirements for operator training or certification) in accordance with subsection (h); or

''(v) consist of a combination of the measures described in clauses (i) through (iv).

''(3) PERMIT REQUIREMENTS AND CONDITIONS.—

''(A) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall include—

''(i) enforceable mercury emission standards;

''(ii) a schedule of compliance;

''(iii) a requirement that the permittee submit to the permitting authority, not less often than every 90 days, the results of any required monitoring; and

''(iv) such other conditions as the Administrator determines are necessary to ensure compliance with this subsection and each applicable implementation plan under section 110.

''(B) MONITORING AND ANALYSIS.—

''(i) PROCEDURES AND METHODS.—The regulations promulgated by the Administrator under paragraph (1)(A) shall prescribe procedures and methods for—

''(I) monitoring and analysis for mercury; and

''(II) determining compliance with this subsection.

''(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

''(iii) OTHER REQUIREMENTS.—

''(I) IN GENERAL.—The requirements for monitoring and analysis under this subparagraph shall include—

''(aa) such requirements that result in a representative determination of mercury in ash and sludge; and

''(bb) such combination of requirements for continuous or other reliable and representative emission monitoring methods that results in a representative determination of mercury in fuel as received by each electric utility steam generating unit;

as are requisite to provide accurate and reliable data for determining baseline and controlled emissions of mercury from each electric utility steam generating unit.

''(II) MINIMUM REQUIREMENT.—If, under subclause (I)(bb), the Administrator does not require an electric utility steam generating unit to use direct emission monitoring methods, the requirements under subclause (I)(bb) shall, at a minimum, result in representative determinations of mercury in fuel as received by the electric utility steam generating unit at such frequencies as are sufficient to determine whether compliance with this subsection is continuous.

''(iv) EFFECT ON OTHER LAW.—Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

''(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

''(i) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall specify inspection, entry, monitoring, compliance certification, and reporting requirements to ensure compliance with the permit terms and conditions.

''(ii) CONFORMITY WITH OTHER REGULATIONS.—The monitoring and reporting requirements shall conform to each applicable regulation under subparagraph (B).

''(iii) SIGNATURE.—Each report required under clause (i) and subparagraph (B)(iii) shall be signed by a responsible official of the electric utility steam generating unit, who shall certify the accuracy of the report.

''(D) MERCURY EMISSION BASELINE.—

''(i) IN GENERAL.—For each electric utility steam generating unit (referred to in this subparagraph as a 'unit'), the Administrator shall calculate the baseline annual average poundage of mercury emitted per unit, which shall be equal to the product obtained by multiplying—

''(I) the baseline fuel consumption determined under clause (ii) for the unit; by

''(II) the baseline average mercury content determined under clause (iii) for the unit.

''(ii) BASELINE FUEL CONSUMPTION.—

''(I) UNITS IN COMMERCIAL OPERATION BEFORE JANUARY 1, 1996.—For each unit that began commercial operation before January 1, 1996, the baseline fuel consumption shall be equal to the annual average quantity of millions of British thermal units (referred to in this subparagraph as 'mmBtu's') consumed by the unit during the period of calendar years 1996, 1997, and 1998, as submitted annually to the Secretary of Energy on Department of Energy Form 767 (referred to in this clause as 'Form 767').

''(II) UNITS BEGINNING COMMERCIAL OPERATION BETWEEN JANUARY 1, 1996, AND 180 DAYS AFTER ENACTMENT.—Subject to subclause (III), for each unit that begins commercial operation between January 1, 1996, and the date that is 180 days after the date of enactment of this subparagraph, the baseline fuel consumption shall be based on the annual average of the fuel use data submitted on Form 767 for each full year of commercial operation that begins on or after January 1, 1996.

''(III) UNITS IN COMMERCIAL OPERATION LESS THAN 1 YEAR AS OF 180 DAYS AFTER ENACTMENT.—For each unit that has not been in commercial operation for at least 1 year as of the date that is 180 days after the date of enactment of this subparagraph, the Administrator may determine an interim baseline fuel consumption by—

''(aa) extrapolating from monthly fuel use data available for the unit; or

''(bb) assigning a baseline fuel consumption based on the annual average of the fuel use data submitted on Form 767 for other units that are of similar design and capacity.

''(IV) UNITS BEGINNING COMMERCIAL OPERATION MORE THAN 180 DAYS AFTER ENACTMENT.—For each unit that begins commercial operation more than 180 days after the date of enactment of this subparagraph, the application for a permit issued in accordance with paragraph (1)(B) for the unit shall include an initial baseline fuel consumption that is based on the maximum design capacity for the unit.

''(V) RECALCULATION AFTER EXTENDED PERIOD OF COMMERCIAL OPERATION.—At such time as a unit described in any of subclauses (II) through (IV) has submitted fuel use data for 3 consecutive years of commercial operation on Form 767, the Administrator shall recalculate the baseline fuel consumption and make modifications, as necessary, to the mercury emission limitations contained in the permit for the unit issued in accordance with paragraph (1)(B).

''(iii) BASELINE AVERAGE MERCURY CONTENT.—

''(I) UNITS IN COMMERCIAL OPERATION BEFORE JANUARY 1, 1996.—In the case of a unit described in clause (ii)(I), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy that characterize the average mercury content of the fuel consumed by the unit during the 3-year period described in clause (ii)(I).

''(II) UNITS BEGINNING COMMERCIAL OPERATION BETWEEN JANUARY 1, 1996, AND 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(II), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy that characterize the average mercury content of the fuel consumed by the unit during each full year of commercial operation that begins on or after January 1, 1996.

''(III) UNITS IN COMMERCIAL OPERATION LESS THAN 1 YEAR AS OF 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(III), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy that characterize the average mercury content of the fuel consumed by the unit—

''(aa) during the months used for the extrapolation under clause (ii)(III); or

''(bb) based on the average mercury content of fuel consumed by other units that are of similar design and capacity.

''(IV) UNITS BEGINNING COMMERCIAL OPERATION MORE THAN 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(IV), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy, or data submitted by the unit under subparagraph (B)(iii), that characterize the average mercury content of the fuel consumed by the unit based on the maximum design capacity for the unit.

''(V) ESTIMATED DATA.—If mercury content data described in clauses (I) through (IV) are not available, the baseline average mercury content shall be estimated using the average mercury content of fossil fuel from mines or wells in the geographic region of each mine or well that supplies the unit.

''(4) DISPOSAL OF MERCURY CAPTURED THROUGH EMISSION CONTROLS.—

''(A) IN GENERAL.—

''(i) CAPTURED OR RECOVERED MERCURY.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury that is captured or recovered

through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

''(I) the hazards from mercury are not transferred from 1 environmental medium to another; and

''(II) there is no release of mercury into the environment (as the terms 'release' and 'environment' are defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

''(ii) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

''(B) RESEARCH PROGRAM.—To promote permanent and cost-effective disposal of mercury from electric utility steam generating units, the Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques such as separating, solidifying, recycling, and encapsulating mercury-containing waste so that mercury does not volatilize, migrate to ground water or surface water, or contaminate the soil.

''(5) OTHER REQUIREMENTS.—An emission standard or other requirement promulgated under this subsection does not diminish or replace any requirement of a more stringent emission limitation or other applicable requirement established under this Act or a standard issued under State law.

''(6) PUBLIC REPORTING OF DATA PERTAINING TO EMISSIONS OF MERCURY.—

''(A) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific mercury emission data for each electric utility steam generating unit.

''(B) SOURCE OF DATA.—The emission data shall be taken from the monitoring and analysis reports submitted under paragraph (3)(C).''.

SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER UNITS.

Section 112 of the Clean Air Act (as amended by section 3) is amended by inserting after subsection (s) the following:

''(t) MERCURY EMISSION STANDARDS FOR COAL- AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER UNITS.—

''(1) IN GENERAL.—

''(A) REGULATIONS.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations to establish standards for the emission of mercury and mercury compounds (collectively referred to in this subsection as 'mercury') applicable to existing and new coal- and oil-fired commercial and industrial boiler units that have a maximum design heat input capacity of 10 mmBtu per hour or greater.

''(B) PERMIT REQUIREMENT.—Not later than 2 years after the date of enactment of this subparagraph, each coal- or oil-fired commercial or industrial boiler unit shall have an enforceable permit issued under title V that complies with this subsection.

''(C) PROCEDURES AND SCHEDULES FOR COMPLIANCE WITH STANDARDS.—Each coal- or oil-fired commercial or industrial boiler unit shall achieve compliance with the mercury emission standards established under subparagraph (A) in accordance with the procedures and schedules established under subsection (i).

''(2) STANDARDS AND METHODS.—

''(A) MINIMUM REQUIRED EMISSION REDUCTION.—Subject to subparagraph (C), the emission standards established under paragraph (1)(A) shall require that each coal- or oil-fired commercial or industrial boiler unit reduce its annual poundage of mercury emitted, as calculated under subparagraph (B), below its mercury emission baseline, as calculated under paragraph (3)(D), by not less than 95 percent.

''(B) CALCULATION OF ANNUAL POUNDAGE OF MERCURY EMITTED.—

''(i) IN GENERAL.—For each coal- or oil-fired commercial or industrial boiler unit (referred to in this subparagraph as a 'unit') and each calendar year, the Administrator shall calculate the poundage of mercury emitted per unit for the calendar year, which shall be equal to the product obtained by multiplying—

''(I) the fuel consumption determined under clause (ii) for the unit for the calendar year; by

''(II) the average mercury content determined under clause (iii) for the unit for the calendar year.

''(ii) FUEL CONSUMPTION.—The fuel consumption for a unit shall be equal to the annual average quantity of millions of British thermal units (referred to in this subparagraph as 'mmBtu's') consumed by the unit during the calendar year, as submitted to the Secretary of Energy on Department of Energy Forms EIA–3 and EIA–846 (A,B,C).

''(iii) AVERAGE MERCURY CONTENT.—

''(I) SPECIFIC DATA.—The average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy (as submitted to the Secretary of Energy on Department of Energy Form EIA–3A) that characterize the average mercury content of the fuel consumed by the unit during the calendar year.

''(II) ESTIMATED DATA.—If specific mercury content data from the Department of the Interior and the Department of Energy are not available, the average mercury content shall be estimated using the average mercury content of coal mined or oil produced in the geographic region of each mine or well that supplies the unit.

''(C) EMISSION TRADING WITHIN A FACILITY.—

''(i) IN GENERAL.—For the purpose of this subsection, taking into consideration the cost of achieving the emission reduction, the Administrator may allow emission trading among the coal- and oil-fired commercial and industrial boiler units contained in a facility at a single site if the aggregate annual reduction from all such units at the facility is not less than 95 percent.

''(ii) UNDERLYING DATA.—In carrying out clause (i), the Administrator shall use mercury emission data calculated under paragraph (3)(D).

''(D) CONTROL METHODS.—For the purpose of achieving compliance with the emission standards established under paragraph (1)(A), the Administrator shall authorize methods of control of mercury emissions, including measures that—

''(i) reduce the volume of, or eliminate emissions of, mercury through a process change, substitution of material or fuel, or other method;

''(ii) enclose systems or processes to eliminate mercury emissions;

''(iii) collect, capture, or treat mercury emissions when released from a process, stack, storage, or fugitive emission point;

''(iv) consist of design, equipment, work practice, or operational standards (including requirements for operator training or certification) in accordance with subsection (h); or

''(v) consist of a combination of the measures described in clauses (i) through (iv).

''(3) PERMIT REQUIREMENTS AND CONDITIONS.—

''(A) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall include—

''(i) enforceable mercury emission standards;

''(ii) a schedule of compliance;

''(iii) a requirement that the permittee submit to the permitting authority, not less often than every 90 days, the results of any required monitoring; and

''(iv) such other conditions as the Administrator determines are necessary to ensure compliance with this subsection and each applicable implementation plan under section 110.

''(B) MONITORING AND ANALYSIS.—

''(i) PROCEDURES AND METHODS.—The regulations promulgated by the Administrator under paragraph (1)(A) shall prescribe procedures and methods for—

''(I) monitoring and analysis for mercury; and

''(II) determining compliance with this subsection.

''(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

''(iii) OTHER REQUIREMENTS.—

''(I) IN GENERAL.—The requirements for monitoring and analysis under this subparagraph shall include—

''(aa) such requirements that result in a representative determination of mercury in ash and sludge; and

''(bb) such combination of requirements for continuous or other reliable and representative emission monitoring methods that results in a representative determination of mercury in fuel as received by each coal- or oil-fired commercial or industrial boiler unit;

as are requisite to provide accurate and reliable data for determining baseline and controlled emissions of mercury from each coal- or oil-fired commercial or industrial boiler unit.

''(II) MINIMUM REQUIREMENT.—If, under subclause (I)(bb), the Administrator does not require a coal- or oil-fired commercial or industrial boiler unit to use direct emission monitoring methods, the requirements under subclause (I)(bb) shall, at a minimum, result in representative determinations of mercury in fuel as received by the boiler unit at such frequencies as are sufficient to determine whether compliance with this subsection is continuous.

''(iv) EFFECT ON OTHER LAW.—Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

''(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

''(i) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall specify inspection, entry, monitoring, compliance certification, and reporting requirements to ensure compliance with the permit terms and conditions.

''(ii) CONFORMITY WITH OTHER REGULATIONS.—The monitoring and reporting requirements shall conform to each applicable regulation under subparagraph (B).

''(iii) SIGNATURE.—Each report required under clause (i) and subparagraph (B)(iii) shall be signed by a responsible official of the coal- or oil-fired commercial or industrial boiler unit, who shall certify the accuracy of the report.

''(D) MERCURY EMISSION BASELINE.—

''(i) IN GENERAL.—For each coal- or oil-fired commercial or industrial boiler unit (referred to in this subparagraph as a 'unit'), the Administrator shall calculate the baseline annual average poundage of mercury emitted per unit, which shall be equal to the product obtained by multiplying—

''(I) the baseline fuel consumption determined under clause (ii) for the unit; by

''(II) the baseline average mercury content determined under clause (iii) for the unit.

''(ii) BASELINE FUEL CONSUMPTION.—

''(I) UNITS IN COMMERCIAL OPERATION BEFORE JANUARY 1, 1996.—For each unit that began commercial operation before January 1, 1996, the baseline fuel consumption shall be equal to the annual average quantity of millions of British thermal units (referred to in this subparagraph as 'mmBtu's') consumed by the unit during the period of calendar years 1996, 1997, and 1998, as submitted annually to the Secretary of Energy on Department of Energy Forms EIA–3 and EIA–846 (A,B,C) (referred to in this clause as the 'Forms').

''(II) UNITS BEGINNING COMMERCIAL OPERATION BETWEEN JANUARY 1, 1996, AND 180 DAYS AFTER ENACTMENT.—Subject to subclause (III), for each unit that begins commercial operation between January 1, 1996, and the date that is 180 days after the date of enactment of this subparagraph, the baseline fuel consumption shall be based on the annual average of the fuel use data submitted on the Forms for each full year of commercial operation that begins on or after January 1, 1996.

''(III) UNITS IN COMMERCIAL OPERATION LESS THAN 1 YEAR AS OF 180 DAYS AFTER ENACTMENT.—For each unit that has not been in commercial operation for at least 1 year as of the date that is 180 days after the date of enactment of this subparagraph, the Administrator may determine an interim baseline fuel consumption by—

''(aa) extrapolating from monthly fuel use data available for the unit; or

''(bb) assigning a baseline fuel consumption based on the annual average of the fuel use data submitted on the Forms for other units that are of similar design and capacity.

''(IV) UNITS BEGINNING COMMERCIAL OPERATION MORE THAN 180 DAYS AFTER ENACTMENT.—For each unit that begins commercial operation more than 180 days after the date of enactment of this subparagraph, the application for a permit issued in accordance with paragraph (1)(B) for the unit shall include an initial baseline fuel consumption that is based on the maximum design capacity for the unit.

''(V) RECALCULATION AFTER EXTENDED PERIOD OF COMMERCIAL OPERATION.—At such time as a unit described in any of subclauses (II) through (IV) has submitted fuel use data for 3 consecutive years of commercial operation on the Forms, the Administrator shall recalculate the baseline fuel consumption and make modifications, as necessary, to the mercury emission limitations contained in the permit for the unit issued in accordance with paragraph (1)(B).

''(iii) BASELINE AVERAGE MERCURY CONTENT.—

''(I) UNITS IN COMMERCIAL OPERATION BEFORE JANUARY 1, 1996.—In the case of a unit described in clause (ii)(I), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy (as submitted to the Secretary of Energy on Department of Energy Form EIA–3A) that characterize the average mercury content of the fuel consumed by the unit during the 3-year period described in clause (ii)(I).

''(II) UNITS BEGINNING COMMERCIAL OPERATION BETWEEN JANUARY 1, 1996, AND 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(II), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy (as submitted to the Secretary of Energy on Department of Energy Form EIA–3A) that characterize the average mercury content of the fuel consumed by the unit during each full year of commercial operation that begins on or after January 1, 1996.

''(III) UNITS IN COMMERCIAL OPERATION LESS THAN 1 YEAR AS OF 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(III), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy (as submitted to the Secretary of Energy on Department of Energy Form EIA–3A) that characterize the average mercury content of the fuel consumed by the unit—

''(aa) during the months used for the extrapolation under clause (ii)(III); or

''(bb) based on the average mercury content of fuel consumed by other units that are of similar design and capacity.

''(IV) UNITS BEGINNING COMMERCIAL OPERATION MORE THAN 180 DAYS AFTER ENACTMENT.—In the case of a unit described in clause (ii)(IV), the baseline average mercury content per mmBtu of fuel consumed by a unit shall be determined using the best available data from the Department of the Interior and the Department of Energy (as submitted to the Secretary of Energy on Department of Energy Form EIA–3A), or data submitted by the unit under subparagraph (B)(iii), that characterize the average mercury content of the fuel consumed by the unit based on the maximum design capacity for the unit.

''(V) ESTIMATED DATA.—If mercury content data described in clauses (I) through (IV) are not available, the baseline average mercury content shall be estimated using the average mercury content of coal mined or oil produced in the geographic region of each mine or well that supplies the unit.

''(4) DISPOSAL OF MERCURY CAPTURED THROUGH EMISSION CONTROLS.—

''(A) IN GENERAL.—

''(i) CAPTURED OR RECOVERED MERCURY.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

''(I) the hazards from mercury are not transferred from 1 environmental medium to another; and

''(II) there is no release of mercury into the environment (as the terms 'release' and 'environment' are defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

''(ii) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

''(B) RESEARCH PROGRAM.—To promote permanent and cost-effective disposal of mercury from coal- and oil-fired commercial and industrial boiler units, the Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques such as separating, solidifying, recycling, and encapsulating mercury-containing waste so that mercury does not volatilize, migrate to ground water or surface water, or contaminate the soil.

''(5) OTHER REQUIREMENTS.—An emission standard or other requirement promulgated under this subsection does not diminish or replace any requirement of a more stringent emission limitation or other applicable requirement established under this Act or a standard issued under State law.

''(6) PUBLIC REPORTING OF DATA PERTAINING TO EMISSIONS OF MERCURY.—

''(A) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific mercury emission data for each coal- or oil-fired commercial or industrial boiler unit.

''(B) SOURCE OF DATA.—The emission data shall be taken from the monitoring and analysis reports submitted under paragraph (3)(C).''.

SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID WASTE INCINERATION UNITS.

(a) SEPARATION OF MERCURY-CONTAINING ITEMS.—Section 3002 of the Solid Waste Disposal Act (42 U.S.C. 6922) is amended by adding at the end the following:

''(c) SEPARATION OF MERCURY-CONTAINING ITEMS.—

''(1) PUBLICATION OF LIST.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall publish a list of mercury-containing items that shall be required to be separated and removed from the waste streams that feed solid waste management facilities.

''(B) REQUIRED ITEMS.—The list shall include mercury-containing items such as fluorescent light bulbs, batteries, pharmaceuticals, laboratory chemicals and reagents, electrical devices such as thermostats, relays, and switches, and medical and scientific instruments.

''(C) LABELING REQUIREMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), to facilitate the process of separating and removing items listed under subparagraph (A), each manufacturer of a listed item shall ensure that each item is clearly labeled to indicate that the product contains mercury.

''(ii) BUTTON CELL BATTERIES.—In the case of button cell batteries for which, due to size constraints, labeling described in clause (i) is not practicable, the packaging shall indicate that the product contains mercury.

''(2) PLAN.—

''(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this subsection, each person that transfers, directly or through a contractor, solid waste that may contain a mercury-containing item listed under paragraph (1) to a solid waste management facility shall submit for review and approval by the Administrator (or, in the case of a solid waste management facility located in a State that has a State hazardous waste program authorized under section 3006, the State) a plan for—

''(i) separating and removing mercury-containing items listed by the Administrator under paragraph (1) from the waste streams that feed any solid waste management facility;

''(ii) subject to the other requirements of this subtitle, transferring the separated waste to a recycling facility or a treatment, storage, or disposal facility that holds a permit under this subtitle;

''(iii) monitoring and reporting on compliance with the plan; and

''(iv) achieving full compliance with the plan not later than 18 months after the date of approval of the plan in accordance with subparagraph (B).

''(B) PLAN APPROVAL.—

''(i) DEADLINE.—The Administrator (or the State) shall determine whether to approve or disapprove a plan submitted under subparagraph (A) not later than 180 days after the date of receipt of the plan.

''(ii) PREFERENCE.—In determining whether to approve a plan, the Administrator (or the State) shall give preference to recycling or

stabilization of mercury-containing items over disposal of the items.

''(C) AMENDED PLAN.—

''(i) SUBMISSION.—If the Administrator (or the State) disapproves a plan, the person may submit an amended plan not later than 90 days after the date of disapproval.

''(ii) APPROVAL.—The Administrator (or the State) shall approve or disapprove the amended plan not later than 30 days after the date of receipt of the plan.

''(D) PLAN BY ADMINISTRATOR (OR STATE).—

''(i) IN GENERAL.—If an amended plan is not submitted to the Administrator (or the State) within 90 days after the date of disapproval, or if an amended plan has been submitted and subsequently disapproved, the Administrator (or the State) shall issue a determination that it is necessary for the Administrator (or the State) to promulgate a plan for the person.

''(ii) PLAN.—Not later than 180 days after issuing the determination, the Administrator (or the State) shall develop, publish in the Federal Register (or submit to the Administrator for publication in the Federal Register), implement, and enforce a plan that meets the criteria specified in subparagraph (A) and ensures that full compliance with the plan will be achieved not later than 18 months after the date of publication of the plan.

''(E) ENFORCEABILITY.—Upon approval by the Administrator (or the State) of a plan submitted under subparagraph (A), or upon publication of a plan developed by the Administrator (or the State) under subparagraph (D), the plan shall be enforceable under this Act.''.

(b) SOLID WASTE INCINERATION UNIT MERCURY EMISSION MONITORING AND ANALYSIS.—Section 129(e) of the Clean Air Act (42 U.S.C. 7429(e)) is amended—

(1) by striking ''Beginning (1) 36'' and inserting the following:

''(1) IN GENERAL.—Beginning (A) 36'';

(2) in the first sentence, by redesignating paragraph (2) as subparagraph (B); and

(3) by adding at the end the following:

''(2) SOLID WASTE INCINERATION UNIT MERCURY EMISSION MONITORING AND ANALYSIS.—

''(A) PROCEDURES AND METHODS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations prescribing procedures and methods for—

''(I) monitoring and analysis for mercury emissions from solid waste combustion flue gases; and

''(II) determining compliance with this paragraph.

''(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

''(B) PERMIT REQUIREMENTS.—

''(i) IN GENERAL.—Each permit described in paragraph (1) shall specify inspection, entry, monitoring, compliance certification, and reporting requirements with respect to mercury to ensure compliance with the permit terms and conditions, including a requirement that the permittee submit to the permitting authority, not less often than every 90 days, the results of any required monitoring.

''(ii) SIGNATURE.—Each report required under clause (i) shall be signed by a responsible official of the solid waste incineration unit or by a municipal official, who shall certify the accuracy of the report.

''(C) ESTABLISHMENT OF MAXIMUM MERCURY EMISSION RATE.—

''(i) DETERMINATION BY THE ADMINISTRATOR.—Based on the reports required to be submitted under subparagraph (B)(i) 36 months, 39 months, and 42 months after the date of enactment of this subparagraph, the Administrator (or the State) shall make a determination as to whether the solid waste incinerator unit has achieved and is continuously maintaining a mercury emission rate of not more than 0.080 milligrams per dry standard cubic meter.

''(ii) REQUIREMENT OF INSTALLATION OF CONTROLS.—If the mercury emission rate specified in clause (i) is not achieved and maintained over the period covered by the reports referred to in clause (i), or over any 2 out of 3 reporting periods thereafter, the Administrator shall require that the solid waste incineration unit install control equipment and techniques that will, within 3 years, result in a mercury emission rate by the unit of not more than 0.060 milligrams per dry standard cubic meter.

''(iii) ENFORCEABILITY.—The requirements of this subparagraph shall be an enforceable modification to any existing or new permit described in paragraph (1) for the solid waste incineration unit.

''(D) OTHER REQUIREMENTS.—An emission standard or other requirement promulgated under this subsection does not diminish or replace any requirement of a more stringent emission limitation or other applicable requirement established under this Act or a standard issued under State law.

''(E) PUBLIC REPORTING OF DATA PERTAINING TO EMISSIONS OF MERCURY.—

''(i) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific mercury emission data for each solid waste incineration unit.

''(ii) SOURCE OF DATA.—The emission data shall be taken from the monitoring and analysis reports submitted under subparagraph (B).''.

(c) PHASEOUT OF MERCURY IN PRODUCTS.—Section 112 of the Clean Air Act (as amended by section 4) is amended by inserting after subsection (t) the following:

''(u) PHASEOUT OF MERCURY IN PRODUCTS.—

''(1) DEFINITION OF MANUFACTURER.—In this subsection, the term 'manufacturer' includes an importer for resale.

''(2) PROHIBITION ON SALE.—Beginning 3 years after the date of enactment of this paragraph, a manufacturer shall not sell any mercury-containing product, whether manufactured domestically, imported, or manufactured for export, unless the manufacturer has applied for and has been granted by the Administrator an exemption from the prohibition on sale specified in this paragraph.

''(3) PROCEDURES FOR MAKING EXEMPTION APPLICATION DETERMINATIONS.—Before making a determination on an application, the Administrator shall—

''(A) publish notice of the application in the Federal Register;

''(B) provide a public comment period of 60 days; and

''(C) conduct a hearing on the record.

''(4) CRITERIA FOR EXEMPTION.—In making a determination on an application, the Administrator may grant an exemption from the prohibition on sale only if—

''(A) the Administrator determines that the mercury-containing product is a product the use of which is essential;

''(B) the Administrator determines that there is no comparable product that does not contain mercury and that is available in the marketplace at a reasonable cost; and

''(C) through documentation submitted by the manufacturer, the Administrator determines that the manufacturer has established a program to take back, after use by the consumer, all mercury-containing products subject to the exemption that are manufactured after the date of approval of the application.

''(5) TERM OF EXEMPTION.—

''(A) IN GENERAL.—An exemption may be granted for a period of not more than 3 years.

''(B) RENEWALS.—Renewal of an exemption shall be carried out in accordance with paragraphs (3) and (4).

''(6) PUBLICATIONS IN THE FEDERAL REGISTER.—The Administrator shall publish in the Federal Register—

''(A) a description of each exemption application approval or denial; and

''(B) on an annual basis, a list of products for which exemptions have been granted under this subsection.''.

SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-ALKALI PLANTS.

Section 112 of the Clean Air Act (as amended by section 5(c)) is amended by inserting after subsection (u) the following:

''(v) MERCURY EMISSION STANDARDS FOR CHLOR-ALKALI PLANTS.—

''(1) IN GENERAL.—

''(A) REGULATIONS.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations to establish standards for the direct and fugitive emission of mercury and mercury compounds (collectively referred to in this subsection as 'mercury') applicable to existing and new chlor-alkali plants that use the mercury cell production process (referred to in this subsection as 'mercury cell chlor-alkali plants').

''(B) PERMIT REQUIREMENT.—Not later than 2 years after the date of enactment of this subparagraph, each mercury cell chlor-alkali plant shall have an enforceable permit issued under title V that complies with this subsection.

''(C) PROCEDURES AND SCHEDULES FOR COMPLIANCE WITH STANDARDS.—Each mercury cell chlor-alkali plant shall achieve compliance with the mercury emission standards established under subparagraph (A) in accordance with the procedures and schedules established under subsection (i).

''(2) STANDARDS AND METHODS.—

''(A) MINIMUM REQUIRED EMISSION REDUCTION.—The emission standards established under paragraph (1)(A) shall require that each mercury cell chlor-alkali plant reduce its annual poundage of direct and fugitive mercury emitted below its mercury emission baseline, as determined by the Administrator, by not less than 95 percent.

''(B) CONTROL METHODS.—For the purpose of achieving compliance with the emission standards established under paragraph (1)(A), the Administrator shall authorize methods of control of mercury emissions, including measures that—

''(i) reduce the volume of, or eliminate emissions of, mercury through a process change, substitution of material, or other method;

''(ii) enclose systems or processes to eliminate mercury emissions;

''(iii) collect, capture, or treat mercury emissions when released from a process, stack, storage, or fugitive emission point, or through evaporation of a spill;

''(iv) consist of design, equipment, manufacturing process, work practice, or operational standards (including requirements for operator training or certification or spill prevention) in accordance with subsection (h); or

''(v) consist of a combination of the measures described in clauses (i) through (iv).

''(3) PERMIT REQUIREMENTS AND CONDITIONS.—

''(A) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall include—

''(i) enforceable mercury emission standards;

''(ii) a schedule of compliance;

''(iii) a requirement that the permittee submit to the permitting authority, not less often than every 90 days, the results of any required monitoring; and

''(iv) such other conditions as the Administrator determines are necessary to ensure compliance with this subsection and each applicable implementation plan under section 110.

''(B) MONITORING AND ANALYSIS.—

''(i) PROCEDURES AND METHODS.—The regulations promulgated by the Administrator under paragraph (1)(A) shall prescribe procedures and methods for—

''(I) monitoring and analysis for mercury; and

''(II) determining compliance with this subsection.

''(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

''(iii) EFFECT ON OTHER LAW.—Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

''(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

''(i) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall specify inspection, entry, monitoring, compliance certification, and reporting requirements to ensure compliance with the permit terms and conditions.

''(ii) CONFORMITY WITH OTHER REGULATIONS.—The monitoring and reporting requirements shall conform to each applicable regulation under subparagraph (B).

''(iii) SIGNATURE.—Each report required under clause (i) shall be signed by a responsible official of the mercury cell chlor-alkali plant, who shall certify the accuracy of the report.

''(4) DISPOSAL OF MERCURY CAPTURED THROUGH EMISSION CONTROLS.—

''(A) IN GENERAL.—

''(i) CAPTURED OR RECOVERED MERCURY.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury that is captured or recovered through the use of an emission control or another method is disposed of in a manner that ensures that—

''(I) the hazards from mercury are not transferred from 1 environmental medium to another; and

''(II) there is no release of mercury into the environment (as the terms 'release' and 'environment' are defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

''(ii) MERCURY-CONTAINING WASTES.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury-containing wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

''(B) RESEARCH PROGRAM.—To promote permanent and cost-effective disposal of mercury from mercury cell chlor-alkali plants, the Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques such as separating, solidifying, recycling, and encapsulating mercury-containing waste so that mercury does not volatilize, migrate to ground water or surface water, or contaminate the soil.

''(5) OTHER REQUIREMENTS.—An emission standard or other requirement promulgated under this subsection does not diminish or replace any requirement of a more stringent emission limitation or other applicable requirement established under this Act or a standard issued under State law.

''(6) PUBLIC REPORTING OF DATA PERTAINING TO EMISSIONS OF MERCURY.—

''(A) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific mercury emission data for each mercury cell chlor-alkali plant.

''(B) SOURCE OF DATA.—The emission data shall be taken from the monitoring and analysis reports submitted under paragraph (3)(C).''.

SEC. 7. MERCURY EMISSION STANDARDS FOR PORTLAND CEMENT PLANTS.

Section 112 of the Clean Air Act (as amended by section 6) is amended by inserting after subsection (v) the following:

''(w) MERCURY EMISSION STANDARDS FOR PORTLAND CEMENT PLANTS.—

''(1) IN GENERAL.—

''(A) REGULATIONS.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations—

''(i) to establish standards for the control of direct dust emission of mercury and mercury compounds (collectively referred to in this subsection as 'mercury') from crushers, mills, dryers, kilns (excluding emission from such burning of hazardous waste-containing fuel in a cement kiln as is regulated under section 3004(q) of the Solid Waste Disposal Act (42 U.S.C. 6924(q)), and clinker coolers at existing and new Portland cement plants; and

''(ii) to establish standards for the control of fugitive dust emission of mercury from storage, transport, charging, and discharging operations at existing and new Portland cement plants.

''(B) PERMIT REQUIREMENT.—Not later than 2 years after the date of enactment of this subparagraph, each Portland cement plant shall have an enforceable permit issued under title V that complies with this subsection.

''(C) PROCEDURES AND SCHEDULES FOR COMPLIANCE WITH STANDARDS.—Each Portland cement plant shall achieve compliance with the mercury emission standards established under subparagraph (A) in accordance with the procedures and schedules established under subsection (i).

''(2) STANDARDS AND METHODS.—

''(A) MINIMUM REQUIRED EMISSION REDUCTION.—The emission standards established under paragraph (1)(A) shall require that each Portland cement plant reduce its annual poundage of direct and fugitive mercury emitted below its mercury emission baseline, as determined by the Administrator, by not less than 95 percent.

''(B) CONTROL METHODS.—For the purpose of achieving compliance with the emission standards established under paragraph (1)(A), the Administrator shall authorize methods of control of mercury emissions, including measures that—

''(i) reduce the volume of, or eliminate emissions of, mercury through a process change, substitution of material, or other method;

''(ii) enclose systems, processes, or storage to eliminate mercury emissions;

''(iii) collect, capture, or treat mercury emissions when released from a process, stack, storage, or fugitive emission point;

''(iv) consist of design, equipment, manufacturing process, work practice, or operational standards (including requirements for operator training or certification) in accordance with subsection (h); or

''(v) consist of a combination of the measures described in clauses (i) through (iv).

''(3) PERMIT REQUIREMENTS AND CONDITIONS.—

''(A) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall include—

''(i) enforceable mercury emission standards;

''(ii) a schedule of compliance;

''(iii) a requirement that the permittee submit to the permitting authority, not less often than every 90 days, the results of any required monitoring; and

''(iv) such other conditions as the Administrator determines are necessary to ensure compliance with this subsection and each applicable implementation plan under section 110.

''(B) MONITORING AND ANALYSIS.—

''(i) PROCEDURES AND METHODS.—The regulations promulgated by the Administrator under paragraph (1)(A) shall prescribe procedures and methods for—

''(I) monitoring and analysis for mercury; and

''(II) determining compliance with this subsection.

''(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

''(iii) EFFECT ON OTHER LAW.—Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

''(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

''(i) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall specify inspection, entry, monitoring, compliance certification, and reporting requirements to ensure compliance with the permit terms and conditions.

''(ii) CONFORMITY WITH OTHER REGULATIONS.—The monitoring and reporting requirements shall conform to each applicable regulation under subparagraph (B).

''(iii) SIGNATURE.—Each report required under clause (i) shall be signed by a responsible official of the Portland cement plant, who shall certify the accuracy of the report.

''(4) DISPOSAL OF MERCURY CAPTURED THROUGH EMISSION CONTROLS.—

''(A) IN GENERAL.—

''(i) CAPTURED OR RECOVERED MERCURY.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury that is captured or recovered through the use of an emission control or another method is disposed of in a manner that ensures that—

''(I) the hazards from mercury are not transferred from 1 environmental medium to another; and

''(II) there is no release of mercury into the environment (as the terms 'release' and 'environment' are defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

''(ii) MERCURY-CONTAINING WASTES.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury-containing wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

''(B) RESEARCH PROGRAM.—To promote permanent and cost-effective disposal of mercury from Portland cement plants, the Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques such as separating, solidifying, recycling, and encapsulating mercury-containing waste so that mercury does not volatilize, migrate to ground water or surface water, or contaminate the soil.

''(5) OTHER REQUIREMENTS.—An emission standard or other requirement promulgated under this subsection does not diminish or

replace any requirement of a more stringent emission limitation or other applicable requirement established under this Act or a standard issued under State law.

''(6) PUBLIC REPORTING OF DATA PERTAINING TO EMISSIONS OF MERCURY.—

''(A) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific mercury emission data for each Portland cement plant.

''(B) SOURCE OF DATA.—The emission data shall be taken from the monitoring and analysis reports submitted under paragraph (3)(C).''.

SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMISSION STANDARDS FOR MEDICAL WASTE INCINERATORS.

(a) IN GENERAL.—Not later than December 31, 2000, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the extent to which the annual poundage of mercury and mercury compounds emitted by each medical waste incinerator in the United States has been reduced below the baseline for the medical waste incinerator determined under subsection (b).

(b) BASELINE.—

(1) USE OF ACTUAL DATA.—As a baseline for measuring emission reductions, the report shall use the mercury and mercury compound emission data that were submitted or developed during the process of permitting of the medical waste incinerator under the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) LACK OF ACTUAL DATA.—If the data described in paragraph (1) are not available, the Administrator shall develop an estimate of baseline mercury emissions based on other sources of data and the best professional judgment of the Administrator.

SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMISSION STANDARDS FOR HAZARDOUS WASTE COMBUSTORS.

(a) IN GENERAL.—Not later than December 31, 2000, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the extent to which the annual poundage of mercury and mercury compounds emitted by each hazardous waste combustor in the United States has been reduced below the baseline for the hazardous waste combustor determined under subsection (b).

(b) BASELINE.—

(1) USE OF ACTUAL DATA.—As a baseline for measuring emission reductions, the report shall use the mercury and mercury compound emission data that were submitted or developed during the process of permitting of the hazardous waste combustor under the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) LACK OF ACTUAL DATA.—If the data described in paragraph (1) are not available, the Administrator shall develop an estimate of baseline mercury emissions based on other sources of data and the best professional judgment of the Administrator.

SEC. 10. REPORT ON USE OF MERCURY AND MERCURY COMPOUNDS BY DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Not later than December 31, 2000, the Secretary of Defense shall submit to Congress a report on the use of mercury and mercury compounds by the Department of Defense.

(b) CONTENTS.—In the report, the Secretary of Defense shall describe—

(1) measures that the Department of Defense is carrying out to reduce the use and emissions of mercury and mercury compounds by the Department; and

(2) measures that the Department of Defense is carrying out to stabilize or recycle discarded mercury or discarded mercury-containing products.

SEC. 11. INTERNATIONAL ACTIVITIES.

(a) STUDY AND REPORT.—Not later than December 31, 2000, the Administrator of the Environmental Protection Agency, in cooperation with appropriate representatives of Canada and Mexico, shall study and submit to Congress a report on the sources and extent of mercury emissions in North America.

(b) REVIEW.—Before submitting the report to Congress, the Administrator shall submit the report for—

(1) internal and external scientific peer review; and

(2) review by the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365).

(c) REQUIRED ELEMENTS.—The report shall include—

(1) a characterization and identification of the sources of emissions of mercury in North America;

(2) a description of the patterns and pathways taken by mercury pollution through the atmosphere and surface water; and

(3) recommendations for pollution control measures, options, and strategies that, if implemented individually or jointly by the United States, Canada, and Mexico, will eliminate or greatly reduce transboundary atmospheric and surface water mercury pollution in North America.

SEC. 12. MERCURY RESEARCH.

Section 103 of the Clean Air Act (42 U.S.C. 7403) is amended by adding at the end the following:

''(l) MERCURY RESEARCH.—

''(1) ESTABLISHMENT OF PROGRAMS.—The Administrator shall establish—

''(A) a program to characterize and quantify the potential mercury-related health effects on high-risk populations (such as pregnant women and their fetuses, women of childbearing age, children, and individuals who subsist primarily on fish); and

''(B) a mercury public awareness and prevention program targeted at populations most at risk from exposure to mercury.

''(2) STUDY OF IMPLEMENTATION OF MEASURES TO CONTROL MERCURY EMISSIONS.—

''(A) ESTABLISHMENT OF ADVISORY COMMITTEE.—Not later than 3 years after the date of enactment of this subsection, the Secretary of Health and Human Services and the Administrator shall establish an advisory committee to evaluate and prepare a report on the progress made by the Federal Government, State and local governments, industry, and other regulated entities to implement and comply with the mercury-related amendments to the Clean Air Act (42 U.S.C. 7401 et seq.) made by the Omnibus Mercury Emissions Reduction Act of 1999.

''(B) MEMBERSHIP.—

''(i) IN GENERAL.—The advisory committee shall consist of at least 15 members, of whom at least 1 member shall represent each of the following:

''(I) The Department of Health and Human Services.

''(II) The Agency for Toxic Substances and Disease Registry.

''(III) The Food and Drug Administration.

''(IV) The Environmental Protection Agency.

''(V) The National Academy of Sciences.

''(VI) Native American populations.

''(VII) State and local governments.

''(VIII) Industry.

''(IX) Environmental organizations.

''(X) Public health organizations.

''(ii) APPOINTMENT.—The Secretary of Health and Human Services and the Administrator shall each appoint not fewer than 7 members of the advisory committee.

''(C) DUTIES.—The advisory committee shall—

''(i) evaluate the adequacy and completeness of data collected and disseminated by the Environmental Protection Agency and each State that reports on and measures mercury contamination in the environment;

''(ii) make recommendations to the Secretary of Health and Human Services and the Administrator concerning—

''(I) changes necessary to improve the quality and ensure consistency from State to State of Federal and State data collection, reporting, and characterization of baseline environmental conditions; and

''(II) methods for improving public education, particularly among high-risk populations (such as pregnant women and their fetuses, women of childbearing age, children, and individuals who subsist primarily on fish), concerning the pathways and effects of mercury contamination and consumption; and

''(iii) not later than 4 years after the date of enactment of this subsection, compile and make available to the public, through 1 or more published reports and 1 or more forms of electronic media, the findings, recommendations, and supporting data, including State-specific data, of the advisory committee under this subparagraph.

''(D) COMPENSATION.—

''(i) IN GENERAL.—A member of the advisory committee shall receive no compensation by reason of the service of the member on the advisory committee.

''(ii) TRAVEL EXPENSES.—A member of the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the advisory committee.

''(E) DURATION OF ADVISORY COMMITTEE.—The advisory committee—

''(i) shall terminate not earlier than the date on which the Secretary of Health and Human Services and the Administrator determine that the findings, recommendations, and supporting data prepared by the advisory committee have been made available to the public; and

''(ii) may, at the discretion of the Secretary of Health and Human Services and the Administrator, continue in existence after that date to further carry out the duties described in subparagraph (C).

''(F) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee established under this paragraph.

''(G) FUNDING.—The Secretary of Health and Human Services and the Administrator shall each provide 50 percent of the funding necessary to carry out this paragraph.

''(3) REPORT ON MERCURY SEDIMENTATION TRENDS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall submit to Congress a report that characterizes mercury and mercury-compound sedimentation trends in Lake Champlain, Chesapeake Bay, the Great Lakes, the finger lakes region of upstate New York, Tampa Bay, and other water bodies of concern (as determined by the Administrator).

''(4) EVALUATION OF FISH CONSUMPTION ADVISORIES.—

''(A) IN GENERAL.—The Administrator shall evaluate the adequacy, consistency, completeness, and public dissemination of—

''(i) data collected by the Environmental Protection Agency and each State concerning mercury contamination of fish; and

''(ii) advisories to warn the public about the consumption of mercury-contaminated

fish (referred to in this paragraph as 'fish consumption advisories').

''(B) IMPROVEMENT OF QUALITY AND CONSISTENCY.—In conjunction with each State or unilaterally, the Administrator shall implement any changes necessary to improve the quality and ensure consistency from State to State of Federal and State data collection, reporting, characterization of mercury contamination, and thresholds concerning mercury contamination in fish above which fish consumption advisories will be issued.

''(C) REPORTING.—Not later than 2 years after the date of enactment of this subsection and every 2 years thereafter, the Administrator shall prepare and make available to the public, through 1 or more published reports and 1 or more forms of electronic media, information providing detail by State, watershed, water body, and river reach of mercury levels in fish and any fish consumption advisories that have been issued during the preceding 2-year period.

''(D) EFFECT ON STATE AUTHORITY.—Nothing in this paragraph affects any authority of a State to advise residents of the mercury content of commercially sold foods and other products.''.

OVERVIEW OF THE OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 1999

Why has Senator Leahy introduced the ''Omnibus Mercury Emissions Reduction Act of 1999''?

Senator Leahy's concerns about the current and long-term environmental and health consequences in the United States resulting from the discharge of toxic chemicals into the environment are lonstanding. He is particularly concerned about the effects of mercury. He is also concerned about transport of air pollution from other parts of the nation to the lakes, rivers, forests, and agricultural lands of Vermont.

EPA's ''Mercury Study Report to Congress,'' mandated by the 1990 Clean Air Act, documents mercury pollution sources and troubling trends in mercury pollution in the United States.

Mercury is one of the last major pollutants without an overall pollution control strategy, and as a result it remains largely uncontrolled.

What are the key findings of the ''Mercury Study Report to Congress''?

Scientific and medical evidence show that exposure to mercury and mercury compounds is harmful to human health, and concentrations of it in the environment are arising (e.g., in lake and river sediments).

Pregnant women and their developing fetuses, women of child-bearing age, and children under the age of 8 are most at risk for mercury-related health effects such as neurotoxicity.

Neurotoxicity symptoms include impaired vision, speech, hearing, and walking; sensory disturbances; incoordination of movements; nervous system damage very similar to congenital cerebal palsy; mental disturbances; and, in some cases, death.

Exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish but can also occur through ingestion of methylmercury contaminated drinking water and food sources other than fish, and dermal uptake through soil and water.

The major sources of mercury emissions in the United States are coal-fired electrical utility steam generating units, solid waste combustors, commercial and industrial boilers, medical waste incinerators, hazardous waste combustors, chlor-alkali plants (which manufacture chlorine and sodium hydroxide), and Portland cement plants.

EPA's analysis of mercury deposits and transport, in conjunction with available scientific knowledge, supports a plausible link between mercury emissions from combustion and industrial sources and mercury concentrations in air, soil, water, and sediments.

The following geographical areas have the highest annual rate of deposition of mercury in all forms: the southern Great Lakes and Ohio River Valley; the Northeast and southern New England; and scattered areas in the South, with the most elevated deposition occurring in the Miami and Tampa areas and in two areas in northeast Texas.

The analysis of mercury deposits and transport supports a plausible link between mercury emissions from combustion and industrial sources and methyl mercury concentrations in freshwater fish. In 1997, 40 states have issued health advisories warning the public about consuming mercury-tainted fish, compared to 27 states in 1993. Eleven states have issued state-wide advisories, and 5 states have issued advisories for coastal waters. Mercury advisories have increased 98 percent from 899 in 1993 to 1,782 in 1998.

The presence of mercury in consumer products is of concern in light of the health consequences associated with exposure to mercury.

The presence of mercury in certain batteries and fluorescent light bulbs is of special concern, particularly given the substantial quantities of used batteries and fluorescent light bulbs that are discarded annually in the solid waste stream and the potential for environmental and health consequences associated with land disposal, composting, or municipal waste incineration.

Estimates of U.S. Annual Mercury Emissions Rates for the Largest Emitting Source Categories Source of Data: Mercury Study Report to Congress, December 1997

Coal Fired Utility Boilers: 52 tons per year
Solid Waste Combustors: 30 tons per year
Commercial/Industrial Boilers: 29 tons per year
Medical Waste Incinerators: 16 tons per year
Hazardous Waste Combustors: 7 tons per year
Chlor-Alkali Plants: 7 tons per year
Portland Cement Plants: 5 tons per year

Key features of the ''Omnibus Mercury Emissions Reduction Act of 1999''

Directs EPA to promulgate mercury emissions standards and regulatory strategies for the largest emitting source categories: fossil-fuel fired electric utility steam generating units; fossil-fuel fired commercial and industrial boilers; solid waste combustors; chlor-alkali plants; and Portland cement plants.

Requires Reports to Congress: By EPA on progress in implementing mercury emission reductions for medical waste incinerators pursuant to existing regulations; by EPA on progress in implementing mercury emission reductions for hazardous waste combustors pursuant to existing regulations; by the Department of Defense on the use of mercury and mercury compounds by DoD.

Other features of ''Omnibus Mercury Emissions Reduction Act of 1999''

Directs EPA to work with Canada and Mexico to inventory the sources and pathways of mercury air and water pollution within North America, and recommend options and strategies to greatly reduce transboundary atmospheric and surface water mercury pollution in North America.

Expanded research into characterizing the health effects of mercury pollution to critical populations (i.e., pregnant women and their fetuses, women of child bearing age, and children).

Requires safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other pollution control systems so that the hazards emanating from mercury are not merely transferred from one environmental medium to another.

Requires annual public reporting (hardcopy publication and Internet) of facility-specific emissions of mercury and mercury compounds;

Requires labeling of mercury containing items such as fluorescent light bulbs, batteries, pharmaceuticals, laboratory chemicals and reagents, electrical devices such as thermostats, relays, and switches, and medical and scientific equipment.

Begins a phase out of mercury from products. Exceptions may be made for essential uses.

Implementation of public awareness and prevention programs.

More consistent state-by-state information on mercury-related fish consumption advisories.

Expanded characterization of mercury sedimentation trends and effects in Lake Champlain, the Great Lakes, the Chesapeake Bay, the finger lakes region of upstate New York, Tampa Bay, and other major water bodies.

By Mr. FITZGERALD:

S. 674. A bill to require truth-in-budgeting with respect to the on-budget trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one committee report, the other committee have 30 days to report or be discharged.

TRUTH-IN-BUDGETING ACT OF 1999

● Mr. FITZGERALD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Truth-in-Budgeting Act of 1999''.

SECTION 2. HONEST REPORTING OF THE DEFICIT.

(a) IN GENERAL.—Effective for fiscal year 2001, the President's budget, the budget report of CBO required under section 202(e) of the Congressional Budget Act of 1974, and the concurrent resolution on the budget shall include—

(1) the receipts and disbursements totals of the on-budget trust funds, including the projected levels for at least the next 5 fiscal years; and

(2) the deficit or surplus excluding the on-budget trust funds, including the projected levels for at least the next 5 fiscal years.

(b) ITEMIZATION.—Effective for fiscal year 2001, the President's budget and the budget report of the CBO required under section 202(e) of the Congressional Budget Act of 1974 shall include an itemization of the on-budget trust funds for the budget year, including receipts, outlays, and balances.●

ADDITIONAL COSPONSORS

S. 148

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 148, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.