

None of these categories are numerically limited under the agreement. Once enacted, Congress may not subsequently impose caps on these categories for nationals entering pursuant to this agreement.

The trade agreement expressly prohibits the imposition of labor certification tests or other similar conditions on temporary workers entering from Chile and Singapore. I am amazed the Governments of Chile and Singapore want this. I am amazed they want their people to come in and face exploitation in the United States.

While Congress could certainly correct some aspects of the law implementing the trade agreements, it would be limited in what it could do by the underlying trade agreement itself. For example, if Congress decided to better protect U.S. businesses and workers by amending the laws governing the L-1 visa category to require a labor certification or a numerical limit before a foreign worker from Chile or Singapore could enter the United States, it would not be able to do so. Both are plausible options for dealing with perceived abuses in the visa category. However, both trade agreements provide "neither party may, A, as a condition for temporary entry under paragraph 1, require labor certifications or other procedures of similar effect; or, B, impose or maintain any numerical restriction relating to temporary entry under paragraph 1."

Again, there is something a little insidious in this, in the formulation of a new program with these specific specifications in view of the fact of the more than 50,000 Chilean and Singaporean workers coming in in our other business visitor visa categories. So the significance of this is creating a new program and making it permanent and taking out any meaningful labor certification. I figure every one of these people can replace an American worker for less money. Otherwise, why do this?

These provisions significantly limit congressional authority, A, to establish labor protections when warranted and, B, to limit the number of visas that could be issued to nationals in Chile and Singapore, should we deem it is in the national interest.

I don't think we should relinquish this constitutional authority. It is really for this reason, on behalf of the millions of Americans who are unemployed and underemployed and particularly in these exact categories, I cannot tell you the workers trained with graduate degrees being replaced, with families. And they can't find jobs. And we fall right into the trap and produce an agreement that is going to say: Labor Department, the only thing you can check is the accuracy of an application for name, address, and phone number, and whether it is all filled in, and then you must certify it within 7 days. And John Smith, who has worked in the company for 10 years, has a graduate degree, gets to train this

worker, who is paid \$30,000 less—and I gave you actual cases where this is happening—and the worker goes home to a mortgage on a home and a car and three kids in school.

Is this what we are elected to do? I am not going to do it. If I could filibuster, I would filibuster it. I am really angry about it because it is sleight of hand. There was no meaningful consultation. Mr. Zoellick never picked up the phone and called me—or his No. 2, 3, 4, or 5—and said: This is what we are thinking of doing. I know you in California have the highest unemployment in 10 years and there has been a high-tech bubble burst. I know a lot of your professionals are out on the street. What do you think of this? I would say: No way, Jose.

So I am mad and I hope every working man and woman in this country is mad, too. I am mad because—Mr. President, you know, as you were in committee—we asked to send it back. We were refused. And there is no delay. Bingo, it is out on the floor. It is going to be ramrodded through this body.

Well, one thing I have learned is that the working men and women of this country are not stupid. Of all these visitor visas, we have 5 million granted in just a year. People are going to catch on. The word is going to get around. I very much regret that the administration won't eliminate the immigration section. This would be a perfectly good treaty without them. Five million people came in last year under the H-1B visas—5 million. Plenty of room. We don't need to create a new permanent program, tighten the housing supply, tighten the school supply, bring in all these families, and not be able to take care of our own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

#### A CRISIS IN EDUCATION

Mr. JEFFORDS. First, I commend my good friend from California for her excellent statement and revealing to the Nation the seriousness we have in the ability to provide jobs with qualified workers. Just this past decade, we brought 4 million workers into this country to take the high-skilled jobs of our Nation because we could not provide them from our own school systems. Yet we have thousands and thousands of unemployed and unskilled workers who have managed to get through our school systems without the necessary skills.

We have a crisis in this Nation, and we have had it for years, and that is in education. This administration is totally ignoring the fact that where we should be putting the funds is in preventing this necessity of having to bring in workers from foreign nations, whether it be from Europe or elsewhere. Most of them come from Asia now. Millions and millions are coming in. Yet our own young people in this country do not have the skills because

their school systems are failing. And we are cutting back and back on the funding for education in this Nation.

This administration recognizes we have a problem and realizes our children need help; we have the Leave No Child Behind Program. But we have no funding to prevent the terrible situation that was just outlined by the Senator from California. I praise her for that. But let's wake up and do something about it rather than bringing in millions and millions of workers from Asia to take the jobs that our young people ought to have the skills to take.

#### MERCURY POLLUTION

Mr. JEFFORDS. Mr. President, I will spend a few minutes expressing my concerns about a serious public health crisis that this country faces due to mercury pollution.

Perhaps some of you have heard of the small fishing community of Minamata Bay in Japan. If you know this village, you know also that it was nearly devastated by mercury pollution.

Over 70 years ago, a chemical plant began dumping mercury waste into that bay. For the next 30 years, local citizens who depended heavily on the bay for commerce and daily sustenance saw strange and debilitating health problems emerge.

At first, those eating fish out of the bay began experiencing headaches, numbness, tremors, blurred vision, hearing loss, speech problems, spasms, and loss of consciousness. As fish consumption continued, more people became sick.

Plus, pets started becoming violent and birds fell from the sky. Naturally, the public's panic grew.

Then, a generation of children was born with shriveled limbs and severe physical deformities. The woman in this photograph is one of the survivors of what was called Minamata Disease.

In all, over nine hundred people died and thousands more were crippled by the poisoning. The Japanese government, which discovered the cause of these illnesses as early as 1956, hid the truth from the ailing public and refused to halt the industrial pollution. The dumping eventually stopped in 1968.

In other words, knowing this mercury pollution was deadly, the Japanese government allowed it to continue for another 12 years.

Surely such abandonment of the public's well-being would not happen today in our great country.

Surely our government would never delay protections from mercury pollution for a decade, while allowing industry to neglect its responsibilities.

Sadly, I am afraid this is exactly what is happening in our country today—over half a century after the lessons of Minamata Bay.

Fortunately, we are not faced with the same concentration of mercury pollution as that Japanese fishing village

so many years ago, where an estimated 27 tons of mercury compounds were dumped into the Bay. Although U.S. power plants emit almost twice that amount into the air each year, it is dispersed broadly, resulting in lower concentrations in any one place.

Some estimates show that almost 100 additional tons of this poison are emitted from other U.S. sources every year, bringing our air emissions total to almost 150 tons of mercury pollution annually.

Furthermore, the principal route of human and wildlife exposure, namely, the consumption of poisoned fish, is the same in this country as it was in Minamata. It is occurring at often dangerous levels.

Power plants are the largest unregulated source of mercury in the country, emitting almost 50 tons each year into our air. To put this amount into perspective, just one-seventieth of a teaspoon of annual mercury deposition can make fish in a 25 acre lake unsafe to eat. Utilities, amazingly, are releasing enough mercury into our air every year to contaminate 45 million lakes.

Medical and solid waste incinerators are also major mercury polluters, but they are regulated under the Clean Air Act. Because of these regulations, incinerators have reduced emissions by 95 percent in the last decade. Impressive. The act also requires any residual risk posed by these sources to be reduced with further emissions cuts.

When utilities burn coal, they release much of its mercury content into the air. This mercury falls with the rain into lakes, streams, and the ocean. It then transforms into a toxic compound called methyl mercury that does not break down easily, as this chart shows.

This toxic mercury is eaten by fish, and increases in concentration up the fish food chain as smaller fish are consumed by larger fish. Eventually, humans and other animals eat the fish, and the mercury too. Clearly, our consumption of larger fish can expose us to greater concentrations of mercury contamination than eating smaller fish. This cycle is depicted in the chart beside me.

The EPA estimates that although some atmospheric deposition of mercury in the United States is due to non-U.S. sources, 60 percent of what falls to Earth in our country is due to our own emissions.

We should take responsibility for the fact that most of our mercury deposition comes from our own country. And, for those sources abroad that affect our Nation's environment, I urge the administration to negotiate a treaty quickly to control non-U.S. emissions.

Mercury contamination of fish in the United States has very harmful impacts on our wildlife and our health. In waterfowl such as loons, it interferes with vision and muscle coordination. It is toxic to their developing embryos and hinders reproduction. As a result, loon populations are declining, especially in the Adirondacks.

Other fish-eating wildlife like mink and otters are at risk as well.

In humans, once mercury is ingested it has the ability to enter our blood stream and cross the blood-brain barrier. Pregnant and nursing women then can pass the mercury on to developing fetuses and infants, who are at greatest risk for serious health problems.

The National Academy of Sciences has confirmed that prenatal mercury exposure is linked to the following: impaired memory and concentration; the inability to process and recall information; impaired visual and motor function; attention and language deficits; cerebral palsy; mental retardation; and other developmental effects.

These health effects are similar to those caused by lead poisoning. Indeed, mercury is very likely the next lead. We were able to find an effective solution to the lead problem relatively quickly. However, we can and should address mercury pollution even more swiftly and effectively. We have advanced technology that makes it possible and feasible now.

In 2003, the Centers for Disease Control and Prevention found that 1 in 12 women of childbearing age has mercury levels above EPA's safe health threshold, due primarily to consumption of poisoned fish. This totals almost 5 million women, and results in almost 300,000 newborns with increased risk of nervous system damage from exposure in the womb.

EPA recommends that pregnant women, or women who may become pregnant, eat only one serving of fish each week, and adhere to any State advisories that may call for further prohibitions.

What many Americans may not realize is that all other healthy children and adults are also at risk if they consume a large amount of fish. This group includes recreational anglers like this boy here, some Native American tribes, Asian Americans, and the poor. A United Nations Environment Programme report has linked mercury exposure to heart, thyroid, and digestive problems in adults.

This is truly a widespread health crisis. Yet, despite the fact that these at-risk groups can face mercury exposures two to five times higher than the general population, they are often the least informed about the dangers of mercury consumption.

Today we rely on a hodge podge of State advisories to protect citizens from eating too much poisoned fish. Currently, 43 States have advisories in effect.

These advisories cover over 12 million acres of lakes, 450,000 miles of river, 15,000 miles of coast, and more.

Multi-state water bodies are often covered by inconsistent warnings, leading to confusion for anglers and consumers alike. Many States do not even monitor their own rivers and lakes.

Some State advisories are based on EPA's safety threshold, which has been deemed scientifically justifiable by the

National Academy of Sciences. However, others are based on the EPA's weaker standard. EPA itself does not issue advisories, but it offers guidance to States.

The FDA is responsible for warning consumers about mercury contamination of commercially available fish. However, FDA advisories are rarely posted where fish consumers can see them, at the grocery stores or fish markets. In fact, only this year did one State, California, require that stores begin posting warnings like this one.

This advisory says:

Warning—Pregnant and nursing women, women who may become pregnant, and young children should not eat the following fish: swordfish, shark, king mackerel, and tilefish. They should also limit their consumption of other fish, including fresh or frozen tuna.

Shamefully, the FDA does not make public the information it has collected from fish safety testing. Plus, in 1998, it ceased its mercury monitoring program for shark, swordfish, and tuna, and now does only limited testing.

Does this seem like an adequate way to inform the public about the risks of fish consumption? The FDA must act now to better protect Americans.

The good news is that the Clean Air Act is designed to protect us from some sources of mercury pollution. The bad news is that this administration seems determined to reverse or weaken such protections.

The Clean Air Act amendments of 1990, which I was proud to work on with the first President Bush, called on EPA to study the health and environmental impacts of mercury emissions from utilities by 1993.

Unfortunately, this vital study was not completed until the end of 1997.

The amendments also ordered EPA to explore available technologies for their emission reduction potential, and to regulate mercury and other air toxics, if deemed appropriate and necessary by the administrator.

Such a determination should have been made soon after release of the study, during the Clinton administration. However, the Clinton EPA did not issue such a finding until December 2000.

EPA Administrator Carol Browner found that mercury regulation was, in fact, appropriate and necessary, given the results of the prior EPA's study. This kicked off the drafting of maximum achievable control technology—or MACT—standards for mercury.

However, because EPA missed deadlines in the Act to make that determination, environmentalists sued and obtained a settlement creating a schedule for the development of MACT standards.

Now, the second Bush EPA must propose mercury emission standards for utilities by this December, and finalize them by next December. These standards must be met by the end of 2007 at each unit.

EPA could expedite finalization of the standard to give industry more

time to comply, but instead the Agency has opted for delays. I would also note that EPA is currently violating the Clean Air Act's schedule for air toxics controls for many other sources, sending millions more pounds of dangerous emissions into the air we breathe.

Mr. President, industry information shows that the technology exists today to reduce utility mercury emissions by 90 percent or more—down to about 5 tons per year. Under MACT, the EPA should set its standard to match the capability of the best utility performers.

Not coincidentally, a 90 percent cut in utility mercury emissions is guaranteed in my bill, the Clean Power Act of 2003.

However, the current Bush administration has proposed to derail EPA's mercury standard—in essence, to violate the intent of the Clean Air Act.

This administration's multi-pollutant plan, called Clear Skies, does away with the Clean Air Act's technology standard for mercury. In its place, Clear Skies calls for weaker standards and a 10-year delay in their achievement.

Plus, EPA is prevented from using its existing authority to require further reductions if residual risk from utility air toxics remains a problem.

Could it be that the administration is more interested in giving polluters a free ride than in protecting public health?

This harmful bias towards irresponsible industry is something we saw 50 years ago in Minamata Bay—and we should have learned a lesson about its ill effects.

The Clear Skies polluter payoff does not aim for this five ton goal by 2008, but for 15 tons in 2018 and on—for eternity. As this chart shows, compared to a strict interpretation of what the Clean Air Act could do for our health, this rollback totals 520 percent more toxic mercury in our environment and on our dinner tables before 2018, and 300 percent more mercury after 2018.

Why would we pass this risk on to our children? I have to believe that no compassionate parent- or grandparent-to-be would knowingly do that.

EPA has thoroughly studied the mercury threat and devised an adequate health threshold—which has been supported by the NAS. The agency must follow through with the law of the land and cut mercury emissions from utilities now. In fact, this administration does not have the authority to do any less. We in Congress must not and cannot in good conscience give them that authority through the Clear Skies rollback.

If any of my colleagues doubt the potential benefits of the current Clean Air Act, I suggest they ask this administration for its long overdue economic analysis of today's best technologies—what the Act would require utilities to install.

My colleagues should know that they won't get an honest, fair, or timely re-

sponse, because that response would show that, by comparison, Clear Skies is just a license to keep sending uncontrolled mercury into our air.

It is hard for me to grasp why any administration would want to keep Congress and the public in the dark about the real benefits of the Clean Air Act. Could it be that the administration wants to distort the perceived benefits of any proposed changes.?

To make matters worse, in a recent hearing in the Environment and Public Works Committee, an official from the Council of Economic Advisors suggested that the administration now wants Congress to modify the mercury cap in their air pollution giveaway to make it even less protective.

Instead of capping mercury at twenty-six tons in 2010, the administration would like us to consider a cap as high as 46 tons.

This is an outrage. Utilities today emit about 48 tons of toxic mercury every year. So the modified Clear Skies cap would mean only more inaction.

Candidate George W. Bush started with a four-pollutant bill, then dropped carbon in 2001 to get to three pollutants. Now, his administration is more or less admitting they support merely a 2-pollutant bill. Is that what they consider progress?

Why on earth would we allow them to go forward with this plan?

The scientific evidence about the dangers of mercury exposure mounts annually. The technologies exist today to dramatically reduce emissions and the associated risk. To do otherwise abdicates the administration's and our responsibility to protect public health.

We have a vital choice to make in Congress this year. Either we uphold the law as written in the Clean Air Act or we shut our eyes while the pollution and damage to our health and environment goes on.

The delays and distortion must stop. This is not the 1950s, as much as the administration would like it to be. I have no doubt there will be misguided efforts to stall the mercury standards, which are already late. I promise that I will keep a watchful eye. But I urge all mothers and fathers to pay heed as well—your children's and grand-children's health hangs in the balance.

I have my own health advisory to post on the walls of Congress today: The administration appears less interested in protecting mothers and children from mercury poisoning, and more interested in protecting the polluters' bottom line. This may explain why they are trying to replace current law with Clear Skies.

THE PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent my remarks be as in morning business.

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

#### NOMINATION OF WILLIAM PRYOR

Mr. HATCH. Mr. President, I rise in support of the nomination of William

Pryor to the Eleventh Circuit Court of Appeals. Mr. Pryor was No. 1 in his class at Tulane University Law School. He is a magna cum laude of Tulane University School of Law where he was editor and chief of the Tulane Law Review, something that very few lawyers have the privilege of saying. He then clerked for Judge John Minor Wisdom for the Fifth U.S. Circuit Court of Appeals, a civil rights legend who helped implement desegregation in the South.

While working at two of Alabama's top private law firms, he was the adjunct professor of law at Samford University Cumberland School of Law. In 1995, then-Attorney General JEFF SESSIONS, current Senator from Alabama, hired him as Deputy Attorney General, and in 1997 he was appointed to serve out Senator SESSIONS' term.

In 1998, Alabamians elected General Pryor to this position. He was re-elected in 2002 with the remarkable 59 percent of the vote.

Let me share some of the letters that prominent Democrats have written about General Pryor. Joe Reed, chairman of the Alabama Democratic Conference, which is the State's African-American caucus, writes that General Pryor "will uphold the law without fear or favor. I believe all races and colors will get a fair shake when their cases come before him . . . I am a member of the Democratic National Committee and, of course, General Pryor is a Republican, but these are only party labels. I am persuaded that in General Pryor's eyes, Justice has only one label—Justice!"

Judge Sue Bell Cobb, who sits on the Alabama Court of Criminal Appeals, stated:

I write, not only as the only statewide Democrat to be elected in 2000, not only as a member of the Court which reviews the greatest portion of General Pryor's work, but also as a child advocate who has labored shoulder to shoulder with General Pryor in the political arena on behalf of Alabama's children. It is for these reasons and more that I am indeed honored to recommend General Pryor for nomination to the 11th Circuit Court of Appeals.

And Congressman ARTUR DAVIS encouraged President Bush to nominate General Pryor, declaring his belief that "Alabama will be proud of his service."

I will submit copies of these letters for the RECORD, along with copies of the other many letters from Democrats and Republicans, men and women, and members of Africa-American, Jewish, and Christian communities who support Bill Pryor's nomination.

It is fundamental that a State attorney general has the obligation to represent and defend the laws and interests of this State. General Pryor has fulfilled this responsibility admirably by repeatedly defending the public first and the laws and policies enacted by the Alabama legislature. But one of the reasons for the broad spectrum of support for General Pryor is his demonstrated ability to set aside his personal views and follow the law. As you will undoubtedly hear during the