

But the idea we are talking about giving away \$1.25 billion in loan guarantees to some of the most well-off companies in America as a rider on this bill is the kind of outrageous legislative action that has to be stopped. If they think because the underlying bill is so popular that everybody is just going to turn the other way and let this \$1.25 billion giveaway occur, they are wrong. I do not intend to do that. It is not going to pass the Senate unless they take it out.

I yield the floor.

#### ORGAN DONATION REGULATORY RELIEF ACT

Mr. TORRICELLI. Mr. President, I rise today to address a potential crisis in our nation's system of organ donation. Last year, the U.S. Department of Health and Human Services (HHS) proposed regulations that would have had devastating effects on community-based transplant programs by prohibiting states from offering organs to their own sickest residents before making them available nationwide. In response to the overwhelming concerns of patients and health care professionals nationwide, Congress delayed the implementation of the regulations and commissioned a study by the Institute of Medicine to examine the impact of the regulations on the nation's current system.

The study drew several conclusions which demonstrate how the current system is effective and why the proposed regulations are misguided. For example, the study found that the current system of organ transplantation is reasonably equitable and effective for the sickest patients. It also found that the proposed regulations would increase the overall cost of transplantation in the U.S. Perhaps most important, the study found that the current system does not discriminate because of race or any other factors and that the waiting list for an organ transplant are treated fairly.

These conclusions support the long-held concerns of the organ transplant community that the regulations, which would direct the United Network for Organ Sharing (UNOS) to develop a system which removes geography as a factor in organ donation, may actually increase waiting times in states, like New Jersey, with efficient systems.

These unintended consequences will be felt most greatly among patients with disadvantaged backgrounds. In New Jersey, we are extremely fortunate to have a system that is fair and efficient. New Jersey's unique system of certificate of need and charity care ensures that the most critical patients get organs first regardless of insurance. A national organ donation system will force the smaller transplant centers that serve the uninsured and underinsured to close as the vast majority of organs go to the handful of the nation's largest transplant centers with the longest waiting lists. Without access to

smaller programs, many patients will be faced with the hardship of registering with out-of-state programs that may turn them away due to lack of insurance. Those who are accepted will be forced to travel out of state at great medical risk and financial hardship.

In light of these concerns, the conferees of the FY 2000 Labor, Health, and Human Services, and Education bill included language extending the moratorium on the regulations for a period of three months. While this is a very positive step, I am concerned that this moratorium would not provide sufficient time for Congress to consider this issue as part of the debate on the reauthorization of the National Organ Transplant Act.

I am pleased to join my colleagues Senators SESSIONS, HUTCHINSON, WARNER, MACK, SHELBY, NICKLES, INHOFE, THURMOND, ASHCROFT, MCCONNELL, ROBERTS, KOHL, FEINGOLD, CLELAND, HOLLINGS, BREAUX, GRAHAM, COLLINS, GRAMS, LAUTENBERG, ENZI, MURSKOWSKI, GORTON, LANDRIEU, ROBB, and LINCOLN to introduce the Organ Donation Regulatory Relief Act of 1999.

This bipartisan legislation will delay the Secretary's ability to issue regulations regarding the nation's organ donation system until Congress considers the complex issues surrounding organ procurement and allocation as part of the reauthorization of the National Organ Transplant Act.

For the past 15 years, the national organ procurement and allocation system has existed without federal regulation. During this time, each State has developed a unique system to meet their individual needs. Many states, such as New Jersey, have focused on serving uninsured and underprivileged populations. Clearly improvements can be made to increase the efficiency and effectiveness of organ donation nationwide. The legislation will ensure Congress has ample time to consider these important issues prior to allowing the implementation of far-reaching regulations that will revamp the system.

#### FOREST FIRES IN EASTERN MONTANA

Mr. BURNS. Mr. President, when a hurricane engulfs the Eastern seaboard or an earthquake shatters the lives of Californians, we reach out with compassion to those people who are affected. America's hearts and minds always turn to those who are adversely impacted by these events.

I bring to your attention a devastating natural disaster that recently struck the Eastern portion of my home State, Montana. On Halloween night, it seems as if Mother Nature played a frightening trick on many rural Montanans. A storm below out of the Rocky Mountains and onto the plains of the short grass prairie with winds in excess of 70 miles per hour.

These violent winds stoked several prairie fires. The wild fires imme-

diately became uncontrolled infernos as they are driven along by the gusts, in some cases the wall of flames spanning many miles.

The tiny town of Outlook, MT, was evacuated in the face of this unmanageable fire. Unfortunately, the town itself was laid to waste in the wake of the flames. Thankfully, due to the early evacuation and quick response of the authorities, no lives were lost.

Two hundred and fifty miles south of Outlook another town was facing the same fate. The rural community of Ekalaka was also under evacuation orders. A different fire of the same magnitude was moving toward town as it was swept ahead of the horrific winds. This fire spared the community but still left ruin in its wake. It is estimated that ten to twenty sections of good winter grazing land has been destroyed along with miles of fences and corrals. That is between 6,400 and 12,800 acres that producers will not be able to use for winter feed. The increased costs of buying hay to feed livestock will put a great burden on ranchers already experiencing financial hardship within their industry.

Not only were these two communities impacted, there were several other communities in Eastern Montana that sustained damage due to fires. I offer my sincere gratitude to all of those who worked so diligently to fight these fires and save property and lives.

We now have Montanans facing the onset of winter, homeless, without the security of their places of business, and agricultural producers, without feed for their livestock. Just as we unite together for those who are struck by other natural disasters, I hope that you will join with me in support of these Montanans, who lost not only their homes but their livelihoods.

Entire communities have been adversely affected by this unforeseen emergency and I will be watching closely to see that these folks receive the aid needed to rebuild their lives. Montanans have suffered great losses no less devastating than the hurricanes on the East Coast and they too deserve a helping hand in their time of need.

My thoughts and prayers go out to each and every individual whose lives are in disarray due to this sudden tragedy.

#### COST ESTIMATE ON EXPORT ADMINISTRATION ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that a cost estimate on the Export Administration Act of 1999, prepared by the Congressional Budget Office, be printed in the CONGRESSIONAL RECORD.

There being no objection, the cover letter and estimate were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 3, 1999.  
Hon. PHIL GRAMM,  
Chairman, Committee on Banking, Housing,  
and Urban Affairs, U.S. Senate, Wash-  
ington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1712, the Export Administration Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs), Hester Grippando (for governmental receipts), Shelley Finlayson (for the state and local impact), and Patrice Gordon (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 1712—Export Administration Act of 1999*

**Summary:** The bill would replace the expired Export Administration Act (EAA), thereby updating the system for applying export controls on American business for national security or foreign policy purposes. Since the expiration of the EAA in 1994, the President has extended export controls pursuant to his authority under the International Emergency Economic Powers Act. The Bureau of Export Administration (BXA) in the Department of Commerce administers export controls. The bill also would prohibit participation in boycotts imposed by a foreign country against a country that is friendly to the United States, and would preempt state laws pertaining to participation in such a boycott.

CBO estimates that funding the Department of Commerce to carry out the bill would cost \$255 million over the 2000-2004 period if funding is maintained at the 1999 level or \$280 million if funding is increased each year for anticipated inflation. Because the bill would increase penalties for violations of export controls, CBO estimates governmental receipts would increase by \$18 million over the 2000-2004 period. CBO estimates that half that amount would be spent from the Crime Victims Fund, and BXA would pay informants about \$500,000 a year. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA, but CBO estimates that the costs of this mandate would not be significant and would not exceed the threshold established in that act (\$50 million in 1996, adjusted annually for inflation). Provisions of the bill that are not excluded from the application of UMRA also contain private-sector mandates. CBO estimates that the direct costs of those mandates would be

below the threshold established in UMRA (\$100 million in 1996, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal years, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
<b>CHANGE IN REVENUES AND DIRECT SPENDING</b>						
Estimated Revenues .....	0	0	0	6	6	6
Estimated Budget Authority ..	0	0	0	1	4	4
Estimated Outlays .....	0	0	0	1	4	4
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
<i>EAA Spending Under Current Law by the Bureau of Export Administration:</i>						
Budget Authority <sup>1</sup> .....	44	0	0	0	0	0
Estimated Outlays .....	43	6	2	0	0	0
<i>Proposed Changes:</i>						
Estimated Authorization Level <sup>2</sup> .....	0	59	56	57	59	61
Estimated Outlays .....	0	50	53	57	59	61
<i>EAA Spending H.R. 973 by the Bureau of Export Administration:</i>						
Estimated Authorization Level <sup>1</sup> .....	44	59	56	57	59	61
Estimated Outlays .....	43	56	55	57	59	61

<sup>1</sup>The 1999 level is the amount appropriated for that year. BXA has not yet received a full-year appropriation for 2000.

<sup>2</sup>The estimated authorization levels include annual adjustments to cover anticipated inflation, resulting in an estimated cost of \$280 million over the next five years. Alternatively, if funding is not increased to cover anticipated inflation, the cost would be \$255 million over the 2000-2004 period.

**Basics of estimate:** S. 1712 would authorize the BXA to control the export of certain items from the United States for national security or foreign policy purposes. Generally, export controls would not apply to products that are mass-market items or available from foreign sources at a comparable price and quality. Under the bill, exporters who are executing existing contracts that involve items which are prohibited from being exported for foreign policy reasons would be allowed to fulfill such contracts. CBO estimates that provisions of the Export Administration Act of 1999 would increase revenues by about \$6 million a year beginning in fiscal year 2002 and direct spending by about \$1 million in 2002 and \$4 million a year thereafter. In addition, we estimate that implementing the bill would cost \$280 million over the 2000-2004 period, assuming appropriation of the necessary amounts.

**Revenues**

Since the expiration of the EAA in 1994, criminal and civil penalties for violating export control laws have been collected under the Economic Emergency Powers Act. The bill would transfer the authority to levy fines back to the EAA and would significantly raise the maximum criminal fines that could be imposed—up to \$10 million for corporations or \$1 million for individuals—for violation of export controls. Under the bill, civil penalties of up to \$1 million could also be imposed for violations of the law. On average, about two years elapse between the initial investigation of violations of export control law and the collection of a penalty. Fines are based on the law in force at the start of an investigation. CBO does not ex-

pect penalties under the new law to be collected until fiscal year 2002. Based on information from the Department of Commerce, CBO estimates that enacting the bill would increase receipts from penalties by \$6 million a year beginning in 2002.

**Direct spending**

Collections of criminal fines are recorded in the budget as government receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. We estimate half of the increase in governmental receipts attributable to this bill (\$3 million a year), would be for criminal fines. Thus, the additional direct spending for this provision of the bill also would be about \$3 million a year beginning in 2003, because spending from the Crime Victims Fund lags behind collections by about a year.

Under current law, BXA pays informants negligible amounts each year for leads on possible violations of export control law. The bill would allow BXA to pay informants the lesser of \$250,000 or 25 percent of the value of fines recovered under the act as a result of the information provided. This provision would greatly expand the authority to pay informants. Based on information from BXA, CBO estimates that the bureau would pay informants about \$500,000 a year, starting in 2002.

**Spending subject to appropriation**

BXA is responsible for implementing the EAA. Based on information from the Department of Commerce, CBO estimates that BXA's budget for this work was about \$44 million in 1999, and about \$45 million would be needed in 2000 to continue this work. S. 1712 would authorize the appropriation of such sums as may be necessary to continue this work, to hire 20 employees to establish a best practices program for exporters, to hire 10 overseas investigators, and to procure a computer system for export licensing and enforcement. Based on information from BXA, CBO estimates that implementing a best practices program for exporters would cost about \$4 million a year, stationing overseas investigators would cost about \$5 million a year, and procuring the computer system would cost about \$5 million in 2000. Any such spending would be subject to appropriation of the necessary amounts. Assuming historical spending patterns and allowing for cost increases to cover anticipated inflation, CBO estimates that implementing the bill would cost \$280 million over the 2000-2004 period.

**Pay-as-you-go considerations:** The Balanced Budget and Emergency Deficit Control Act sets pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal years, in millions of dollars—									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays .....	0	0	1	4	4	4	4	4	4	4
Changes in receipts .....	0	0	6	6	6	6	6	6	6	6

Estimated impact on state, local, and tribal governments: Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions

of S. 1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA. That section would preempt a state or local government's ability to participate in, comply with, imple-

ment, or furnish information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries. Because state and local governments would not be required to take any

action, however, CBO estimates that the cost of this preemption would be insignificant.

Estimated impact on the private sector: Section 4 of UMRA excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. Provisions of the bill that do not fall within that exclusion contain private-sector mandates as defined in UMRA.

By replacing the expired Export Administration Act, the bill would impose private-sector mandates on exporters of items controlled for foreign policy purposes. (At the same time the bill would put into place certain new procedural disciplines on the President in the implementation of such controls.) In addition, S. 1712 would impose a mandate by prohibiting anyone, with respect to that person's activities in the interstate or foreign commerce of the United States, from participating in boycotts imposed by a foreign country against a country that is on good terms with the United States.

The bill also would make changes in the system of foreign policy export controls that would lower costs to the private sector of complying with requirements under that system. In particular, S. 1712 would restrict the use of foreign policy export controls on agricultural commodities, medicine, or medical supplies. According to information provided by several government and industry sources, the nonexcluded provisions of the bill would largely either codify current policies with respect to export controls or make reforms that could reduce requirements on exporters of controlled (and de-controlled) items. Thus, CBO expects that the direct costs of complying with private-sector mandates in the bill would fall well below the statutory threshold established in UMRA (\$100 million in 1996, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Mark Hadley. Federal Receipts: Hester Grippando. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### HATE CRIME VIOLENCE

Mrs. FEINSTEIN. Mr. President, a few weeks ago, I met with Alan Stepakoff, the father of six-year old Joshua, who was among five victims—three children ages 5 and 6; one 16-year old teenager and a 68-year old adult—gunned down at a Los Angeles Jewish community center last August by Buford Furrow, Jr., a white supremacist. Fortunately, the son and the four other victims survived the shooting and are on their way to recovery. Unfortunately, within minutes of this tragic shooting, the Nation learned that the same assailant had murdered in cold blood U.S. Postal Service carrier Joseph Iletto, a Filipino American, on account of his race.

This episode is but one of a growing list of hate crimes targeting places once believed to be safe havens—including schools, synagogues, churches, community centers. This incident is a grim reminder of how hate can provoke violence against the young and innocent. Unless we address this hatred and violence in our communities immediately and unequivocally, the list of such horrific events will certainly grow.

We have before us legislation that would address this growing blight on our society: the Hate Crimes Prevention Act of 1999. This important legislation was introduced by my colleague Senator KENNEDY and adopted by the Senate as part of Fiscal Year 2000 Commerce, Justice, State Appropriations Act.

Unfortunately, the measure was stripped from the first Commerce, Justice, State appropriations bill presented to the President. I urge my colleagues to insist on this provision's inclusion in the next such bill.

This legislation is urgently needed to compensate for two limitations in the current law. First, even in the most blatant cases of racial, ethnic, or religious violence, no federal jurisdiction exists unless the victim was targeted while exercising one of six federally protected activities—attending a public school or college; participating in a service or program sponsored by a state or local government; applying for or engaging in employment; serving as juror in a state court; traveling or using a facility of interstate commerce; and enjoying the goods or services of certain places of public accommodation.

These limitations have led to acquittals in several of the cases in which the Department of Justice has determined a need to assert federal jurisdiction and has limited the ability of federal law enforcement officials to work with state and local officials in the investigation and prosecution of many incidents of brutal, hate-motivated violence.

A second limitation in current law is that it provides no coverage whatsoever for violent hate crimes committed because of bias based on the victim's sexual orientation, gender or disability. As a result, federal authorities cannot prosecute individuals who commit violent crimes against others based on these characteristics. This is especially disturbing given the fact that according to the FBI, crimes against gays, lesbians and bisexuals ranked third in reported hate crimes in 1998, registering 1,260 or 15.6 percent of all reported incidents. Unfortunately, there are those who would stop short of supporting this important legislation because it extends protections to those targeted on account of their sexual orientation.

The hate crimes legislation introduced this year would remedy would expand the legislation I authored in 1994, which provided a bifurcated trial and enhanced penalties for felonies spawned by hate that took place either on federal land or in pursuance of a federally protected right (such as voting or attending a public school).

The Hate Crimes Protection Act broadens federal jurisdiction to cover all violent crimes motivated by racial or religious hatred, regardless of whether the victim was exercising a federally protected right. It would also include sexual orientation, gender and

disability to the list of protected categories within current federal hate crime law, provided there is a sufficient connection with interstate commerce.

At the same time, federal involvement would only come into play if the Attorney General certifies that federal prosecution is necessary to secure substantial justice. In recent years, the existing federal hate crimes law has been used only in carefully selected cases where the state criminal justice system did not achieve a just result.

For many years I have been deeply concerned about hate crimes and the immeasurable impact they have on victims, their families and our communities. As I have previously mentioned, in 1993 I sponsored the Hate Crimes Sentencing Enhancement Act, which was signed into law in 1994 as a part of the Violent Crime Control and Law Enforcement Act of 1994. Today, I believe the Hate Crimes legislation will build on this effort by modifying the current laws to allow the federal government to provide the vital assistance to states in investigating of crimes of this magnitude.

Sadly, hate crimes are becoming too commonplace in America. According to the U.S. Department of Justice, in 1998, 7,775 hate crime incidents were reported in the United States and 9,722 victims. Of that total, 4,321 or 58 percent of the crimes were committed on account of the victim's race. More than 3,660 victims of anti-Black crimes; 1,003 victims of anti-White crimes, 620 victims of anti-Hispanic crimes; and 372 victims of anti-Asian/Pacific Islander crimes.

In that same year, 1,390 or roughly 16.0 percent of the victims were targeted because of their religious affiliation. The number of anti-Jewish incidents is second only to those against blacks and far exceeds offenses against all other religious groups combined. Moreover, while by most accounts anti-Semitism in America has declined dramatically over the years, the level of violence is escalating.

Civil rights groups as well as federal and State authorities agree that in the last five years, reported hate crimes have increased annually, from 5,932 in 1994 to 7,755 in 1998. As of 1998, four States still do not collect hate crime data. Yet, even if all States were reporting these incidents, it would be difficult to gauge the true extent of the hate crime problem in this country because bias-motivated crimes typically are under reported by both law enforcement agencies and victims.

And while these crimes have become more numerous, they have also become more violent. Monitoring groups have observed a shift from racially-motivated property crimes, such as spray painting, defacement and graffiti, to personal crimes such as assault, threat and harassment. On a national scale, according to FBI statistics, almost 7 out of 10 hate crimes are directed against people. Nonhate crimes, by