CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 8, 2002

H.R. 2581
Export Administration Act of 2001

As ordered reported by the House Committee on Armed Services on March 6, 2002

SUMMARY

H.R. 2581 would replace the expired Export Administration Act of 1979 (EAA) and would update the system of export controls and penalties for national security and foreign policy purposes. Since the expiration of the EAA in August 2001, 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. This bill would authorize such activities through 2005.

CBO estimates that implementing H.R. 2581 would cost about $310 million over the 2002-2007 period, assuming appropriation of the necessary funds. Because the bill would increase criminal and civil penalties for violations of export controls, CBO estimates governmental receipts would increase by $3 million in 2005 and $7 million a year thereafter. The increase in criminal penalties would cause direct spending from the Crime Victims Fund to rise by about $1 million in 2006 and $3 million in subsequent years. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 2581 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The bill would impose private-sector mandates as defined by UMRA on certain exporters. CBO estimates that the total direct cost of those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($115 million in 2002, 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 functions 370 (commerce and housing credit), 050 (national defense), and 150 (international affairs).

	By Fiscal Year, in Millions of Dollars					
	2002	2003	2004	2005	2006	2007
CHANGES IN REVENUES AND DIRECT SPENDING						
Estimated Revenues	0	0	0	3	7	7
Estimated Budget Authority	0	0	0	0	1	3
Estimated Outlays	0	0	0	0	1	3
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
EAA Spending by the Bureau of Export Administration						
Estimated Authorization Level	39	86	87	90	0	0
Estimated Outlays	11	98	85	90	13	5
EAA Spending by the Departments of State and Defense						
Estimated Authorization Level	2	2	2	2	0	0
Estimated Outlays	1	3	2	2	0	0
Total Proposed Changes						
Estimated Authorization Level	41	88	89	92	0	0
Estimated Outlays	12	101	87	92	13	5

BASIS OF ESTIMATE

H.R. 2581 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 widely distributed through normal commercial channels. For this estimate, CBO assumes that H.R. 2581 will be enacted in the spring of 2002. When fully phased in, CBO estimates that provisions of the Export Administration Act of 2001 would increase revenues by about $7 million a year beginning in fiscal year 2006 and direct spending by about $3 million a year beginning in 2007. In addition, we estimate that implementing the bill would cost $310 million over the 2002-2007 period, assuming appropriation of the necessary amounts.

Revenues

Since the expiration of the Export Administration Act of 1979 in August 2001, criminal and civil penalties for violating export control laws have been collected under the International Economic Emergency Powers Act. H.R. 2581 would significantly raise the maximum criminal fines that could be imposed for violations of export controls. The bill would set the maximum criminal fines at 10 times the value of the exports involved, or $5 million for corporations and $1 million for individuals, whichever is greater. Under the bill, civil penalties of up to $500,000 could also be imposed for violations of the law. On average, about three years elapse between the initial investigation of violations of export control law and the collection of a penalty. Because the amount of a fine is based on the law in force at the start of an investigation, CBO does not expect penalties under the new law to be collected until fiscal year 2005. Based on information from the Department of Commerce, CBO estimates that enacting the bill would increase receipts from civil penalties by about $4 million a year and receipts from criminal penalties by about $3 million a year beginning in 2006.

Direct Spending

Collections of criminal fines are recorded in the budget as governmental receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO estimates that the additional direct spending resulting from the increase in criminal penalties would be about $3 million a year beginning in 2007, because spending from this fund generally lags behind the collection of criminal fines by about a year.

Spending Subject to Appropriation

H.R. 2581 would authorize the appropriation of between $72 million and $76 million a year for the BXA to implement the provisions of the bill during the 2002-2005 period. Also, the bill would authorize additional appropriations of at least $3.5 million annually to hire 20 employees to establish a best practices program for exporters, at least $4.5 million annually to hire 10 overseas investigators, $5 million to enhance the BXA's program to verify the end use of controlled exports, at least $5 million to procure a computer system for export licensing and enforcement, and $4 million annually to hire and train additional license review officers.

CBO estimates that the BXA has already received an appropriation of $55 million for fiscal year 2002 to implement the Export Administration Act. The bill would authorize a total of $72 million for this year. This estimate assumes the additional $17 million would be provided in a supplemental appropriation this spring. Also, 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 $2 million in 2002 and $3 million in 2003. Any such spending would be subject to appropriation of the necessary amounts. Based on BXA's historical spending patterns, CBO estimates that implementing the bill would cost the agency about $302 million over the 2002-2007 period. This estimate assumes that funds are appropriated for the BXA through 2005, as provided in section 506 of the bill.

H.R. 2581 also would require the Departments of State and Defense to review the classification of exports under the new rules established by the bill, and to make any recommendations concerning these rules to the Department of Commerce. Based on information from the Departments of State and Defense, CBO assumes that those two agencies would need to hire additional staff to conduct these reviews. CBO estimates that implementing these provisions would cost about $1 million in 2002 and $8 million over the 2002-2005 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act establishes 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 through 2006 are counted.

	By Fiscal Year, in Millions of Dollars										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	0	0	0	1	3	3	3	3	3	3
Changes in receipts	0	0	0	3	7	7	7	7	7	7	7

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2581 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill would require pharmaceutical companies that apply for licenses to export certain test articles, including drugs, medical devices, biological products, and additives, to undertake new procedures. Such firms would have to identify each clinical investigation concerning those articles involving human subjects and submit proof that the protocols for each investigation have been examined by an institutional review board. Based on information from the Pharmaceutical Research and Manufacturers of America and the Food and Drug Administration, CBO estimates that the cost to identify and submit proof of review would be small and that few test articles would be subject to the new procedures.

The bill would prohibit implements of torture from being exported to certain countries. According to the Bureau of Export Administration, the number of prohibited instruments would be minimal. Historically, the value of such exports has been small.

H.R. 2581 also would require exporters not currently filing their applications through the Automated Export System (AES) to do so. Based on information from the Bureau of Export Administration, the number of additional exporters that would now be required to file through the AES would be minimal.

PREVIOUS CBO ESTIMATE

On September 21, 2001, CBO transmitted an estimate for H.R. 2581, as ordered reported by the House Committee on International Relations on August 1, 2001. Previously, on April 2, 2001, CBO completed an estimate of S. 149, the Export Administration Act of 2001, as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on March 22, 2001.

Both these prior estimates contained CBO's estimates for increases in revenues and direct spending resulting from higher civil and criminal penalties. Based on new information from the BXA, CBO now estimates that enacting either H.R. 2581 or S. 149 would increase penalty collections by $7 million a year and direct spending by $3 million a year when fully phased in.

CBO estimates that implementing H.R. 2581, as ordered reported by either the House Committee on International Relations or the House Committee on Armed Services, would increase the discretionary costs of the Departments of State and Defense by a total of $8 million during the 2002-2005 period. CBO did not anticipate any such increases in cost for these departments as a result of S. 149.

On November 9, 2001, CBO transmitted a private-sector mandate statement for H.R. 2581, as ordered reported by the House Committee on International Relations on August 1, 2001. Both versions of H.R. 2581 contain the same private-sector mandates. CBO determined that S. 149 contained no private-sector mandates as defined by UMRA.

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