

CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE FOR H.R. 4721

**HON. DON YOUNG**

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 2000

Mr. YOUNG of Alaska. Mr. Speaker, I submit for the benefit of the Members a copy of the cost estimate prepared by the Congressional Budget Office for H.R. 4721, a bill to provide for all right, title, and interest in and to certain property in Washington County, Utah, to be vested in the United States.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 10, 2000.

Hon. DON YOUNG,  
Chairman, Committee on Resources,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4721, an act to provide for all right, title, and interest in and to certain property in Washington County, Utah, to be vested in the United States.

If you wish further details on this estimate, we will be pleased to provide them,

The CBO staff contacts are John R. Righter (for federal costs), and Lauren Marks (for the private-sector impact).

Sincerely,

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

Enclosure.

*H.R. 4721—An act to provide for all right, title, and interest in and to certain property in Washington County, Utah, to be vested in the United States*

H.R. 4721 would transfer about 1,550 acres in real property in Washington County, Utah, to the federal government. As compensation for the government's taking of private property, the legislation would provide an immediate payment of \$15 million, with a subsequent amount to be paid to Environmental Land Technology, Ltd., the property owner, at a later date. The amount of the second payment would depend, in part, on whether the federal government could negotiate a settlement with the property owner.

Under a negotiated settlement, the second payment would include the difference between the property's appraised value and the initial payment of \$15 million, plus interest accrued from the date of the legislation's enactment. Alternatively, if the amount of the second payment is decided in a court of law, it would include the remaining property

value as determined by the court, accrued interest, reasonable expenses of holding the property from February 1990 to the date of the final payment, and reasonable court costs and attorneys' fees. The legislation would provide the full faith and credit of the United States to make such payments without further appropriation.

CBO estimates that enacting H.R. 4721 would increase direct spending by \$15 million in fiscal year 2001. The amount of the second payment is uncertain and will probably be determined in court. Based on information from the Bureau of Land Management (BLM), CBO estimates that a second payment of \$43 million would be made in 2002. The estimated total of \$58 million is the midpoint between the government's and the property owner's estimates of the property's value (between \$30 million and \$70 million), plus accrued interest and reasonable property and court-related expenses. This estimate assumes that, based on the wide difference in their estimates of the property's value, the two sides would be unable to negotiate an out-of-court settlement. Because H.R. 4721 would affect direct spending, pay-as-you-go procedures would apply. The changes in direct spending are shown in the following table.

	By fiscal year, in millions of dollars									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays .....	15	43	0	0	0	0	0	0	0	0
Changes in receipts .....	(1) <sup>1</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

<sup>1</sup> Not applicable.

In addition, because it is possible that BLM would have purchased the property under current law using funds appropriated from the Land and Water Conservation Fund, implementing the legislation could reduce the need for future appropriations.

H.R. 4721 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.R. 4721 would impose a private-sector mandate, as defined in UMRA, on the property owner who would be required to confer his property to the federal government. CBO estimates that the cost of complying with the mandate would fall below the annual threshold established by UMRA (\$109 million in 2000, adjusted annually for inflation).

The legislation would require, 30 days after enactment, the landowner to confer to the United States all right, title, and interest in and to, his property located within and adjacent to the Red Cliffs Reserve. That requirement would be a mandate as defined in UMRA. The cost of complying with the mandate would be the fair market value of the land, expenses incurred and lost interest in transferring the property to the federal government, and the costs of relocating. Estimates of the value of the property range between \$30 million and \$70 million. Thus, CBO expects that the direct costs of complying with the mandate would fall below the threshold established by UMRA (\$109 million for private-sector mandates in 2000, adjusted annually for inflation). The legislation provides that, in exchange for his land, the landowner would receive an initial payment \$15 million, as well as a subsequent payment to be determined either through a negotiated settlement or through litigation.

On October 10, 2000, CBO transmitted a cost estimate for S. 2873, a similar bill reported by the Senate Committee on Energy and Natural Resources on October 2, 2000. CBO's two cost estimates are identical.

The CBO staff contacts for this estimate are John R. Righter (for federal costs) and

Lauren Marks (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

INTRODUCTION OF H. CON. RES. 426  
CONCERNING THE VIOLENCE IN  
THE MIDDLE EAST

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 2000

Mr. GILMAN. Mr. Speaker, the past two weeks have seen tension in the Middle East spiral out of control as PLO Chairman Yasser Arafat attempts to dictate Israeli concessions at the negotiating table through the unbridled use of violence, and, most appallingly, through the manipulation of young children as "martyrs in training".

This massive and fundamental violation of the Oslo Accords is intentional, as underscored when the leader of the Tanzim paramilitary forces in the West Bank said yesterday that his organization would escalate the confrontations with Israel and not try to calm the situation. Marwan Barghuti said, "This blessed Intifada is looking ahead and the mass activity is moving forward".

Mr. Speaker, in today's latest outrage, a Palestinian mob killed two Israeli soldiers and dumped their bloodied bodies in the street after the pair were captured with two other servicemen earlier today in the Palestinian city of Ramallah.

That is why I felt compelled to introduce a resolution, H. Con. Res. 426 on behalf of myself and Mr. GEJDENSON, our ranking Minority Member on the House International Relations Committee, condemning the Palestinian vio-

lence, and expressing congressional support for the people of Israel at this time of crisis.

The Palestinians must understand that you can't have it both ways. The Government of Israel has made clear to the world its commitment to peace time and time again. We see that the Palestinian response is violence.

Accordingly, I submit the text H. Con. Res. 426 to be printed at this point in the CONGRESSIONAL RECORD, and urge our colleagues to strongly support this.

H. CON. RES. 426

Whereas the Arab-Israeli Conflict must be resolved by peaceful negotiation;

Whereas since 1993 Israel and the Palestinians have been engaged in intensive negotiations over the future of the West Bank and Gaza;

Whereas the United States, through its consistent support of Israel and the cause of peace, made the current peace process possible;

Whereas the underlying basis of those negotiations was recognition of the Palestine Liberation Organization (PLO) by Israel in exchange for the renunciation of violence by the PLO and its Chairman Yasser Arafat, first expressed in a letter to then-Israeli Prime Minister Yitzhak Rabin dated September 9, 1993, in which Mr. Arafat stated: "[T]he PLO renounces the use of terrorism and other acts of violence, and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators.";

Whereas as a result of those negotiations, the Palestinians now fully control over 40 percent of the West Bank and Gaza, with over 95 percent of the Palestinian population under the civil administration of the Palestinian Authority;

Whereas as a result of peace negotiations, Israel turned over control of these areas to

the Palestinian Authority with the clear understanding and expectation that the Palestinians would maintain order and security there;

Whereas the Palestinian Authority, with the assistance of Israel and the international community, created a strong police force, almost twice the number allowed under the Oslo Accords, specifically to maintain public order;

Whereas the Government of Israel made clear to the world its commitment to peace at Camp David, where it expressed its readiness to take wide-ranging and painful steps in order to bring an end to the conflict, but these proposals were rejected by Chairman Arafat;

Whereas perceived provocations must only be addressed at the negotiating table;

Whereas it is only through negotiations, and not through violence, that the Palestinians can hope to achieve their political aspirations;

Whereas even in the face of the desecration of Joseph's Tomb, a Jewish holy site in the West Bank, the Government of Israel has made it clear that it will withdraw forces from Palestinian areas if the Palestinian Authority maintains order in those areas; and

Whereas the Palestinian leadership not only did too little for far too long to control the violence, but in fact encouraged it: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress—*

(1) expresses its solidarity with the state and people of Israel at this time of crisis;

(2) condemns the Palestinian leadership for encouraging the violence and doing so little for so long to stop it, resulting in the senseless loss of life;

(3) calls upon the Palestinian leadership to refrain from any exhortations to public incitement, urges the Palestinian leadership to vigorously use its security forces to act immediately to stop all violence, to show respect for all holy sites, and to settle all grievances through negotiations;

(4) commends successive Administrations on their continuing efforts to achieve peace in the Middle East;

(5) urges the current Administration to use its veto power at the United Nations Security Council to ensure that the Security Council does not again adopt unbalanced resolutions addressing the uncontrolled violence in the areas controlled by the Palestinian Authority; and

(6) calls on all parties involved in the Middle East conflict to make all possible efforts to reinvigorate the peace process in order to prevent further senseless loss of life by all sides.

#### CALLING FOR AN FDA INVESTIGATION INTO ABUSE OF AVERAGE WHOLESALE PRICE SYSTEM

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 2000

Mr. STARK. Mr. Speaker, last week, I sent the following letter to the FDA, in support of an investigation concerning how some of the nation's leading drug manufacturers are using false pricing data to distort the practice of medicine in America.

The letter details what I believe to be the bilking of the Medicare system by a number of large, powerful drug companies. The evidence I have been provided shows that certain drug companies are making enormous profits avail-

able to many doctors on the "spread" between what Medicare and other payers reimburse for a drug (the average wholesale price), and what that drug is really available for.

These companies have increased their sales by abusing the public trust and exploiting America's seniors and disabled. It is my firm belief that these practices must stop and that these companies must return the money to the public that is owed because of their abusive practices.

The data in the letter is an indictment of the companies' abuse of the taxpayer and of the patient.

The letter follows:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, October 3, 2000.

Dr. JANE E. HENNEY,  
Commissioner, Food and Drug Administration,  
Rockville, MD.

DEAR DR. HENNEY: I would like to share with you concerns I have regarding the conduct of certain drug companies that are regulated by your agency. Internal drug company documents and other evidence from an industry insider, obtained through a Congressional investigation, have exposed deliberate price manipulation by some drug companies. I believe drug companies' misleading acts are exploiting the health care needs of our most seriously ill, poor, disabled and elderly citizens and taking money from the pockets of innocent Medicare beneficiaries who are required to pay 20% of Medicare's current limited drug benefit. These wrongful actions cost federal and state governments, private insurers, and others billions of dollars per year in excessive drug payments and corrupt the professional independence of medical decision makers.

The compelling evidence recently amassed by Congressional investigators reveals that certain drug companies have been reporting and publishing inflated and misleading price data and have engaged in other deceptive business practices in order to manipulate and inflate the prices of certain drugs. The drug manufacturers have perpetrated this fraudulent price manipulation scheme for the express purpose of causing the Medicare and Medicaid Programs to expend excessive amounts in paying claims for certain drugs. The inflated reimbursement arranged by certain drug companies is used to aggressively market the drugs in question, to influence physician prescribing practices, and to increase sales and market share.

The evidence I have seen indicates that the drug companies involved have knowingly, deliberately, and falsely inflated their representations of the average wholesale price ("AWP"), wholesaler acquisition cost ("WAC") and direct price ("DP") which are utilized by the Medicare and Medicaid programs in establishing drug reimbursements to providers. The evidence also clearly establishes that, contrary to previous drug company representations, the initial source of the price data is the drug companies themselves and those acting in concert with them. I have learned that the difference between the inflated AWP and WAC versus the true prices paid by providers is regularly referred to by industry insiders as "the spread."

The Congressional investigation establishes that this "spread" has not occurred accidentally but is the product of conscious and fully-informed business decisions. Bristol-Myers Squibb (BMS) documents, for example, demonstrate drug company control over the spread and knowledge that the spread acts as a financial inducement that affects medical judgments. I am told that BMS, as the innovator of the cancer drug

Etoposide, repeatedly published inflated prices of approximately \$138 while the true market price fell to less than \$10. BMS then developed Etopophos, a newer, therapeutically superior substitute for Etoposide. As the following excerpts from BMS' own documents reveal, BMS' earlier participation in the false price manipulation scheme with Etoposide interfered with physician medical decisions to use Etopophos:

"The Etopophos product profile is significantly superior to that of etoposide injection . . ." (Exhibit #1).

"Currently, physician practices can take advantage of the growing disparity between VePesid's [name brand for Etoposide] list price (and, subsequently, the Average Wholesale Price [AWP]) and the actual acquisition cost when obtaining reimbursement for etoposide purchases. If the acquisition price of Etopophos is close to the list price, the physician's financial incentive for selecting the brand is largely diminished" (Exhibit #2).

BMS' control over the AWP's published for its drugs is revealed in the following excerpt from a letter to the national publisher of drug prices relied on by the Medicaid Program:

Bristol-Myers Squibb Company:  
"Edward Edelstein, First Data Bank . . .  
"DEAR MR. EDELSTEIN: Effective immediately, Bristol-Myers Oncology Division products factor used in determining the AWP should be changed from 20.5% to 25%. This change should not affect any other business of Bristol-Myers Squibb Company" (Exhibit #3).

As a result of BMS' instructions, I am told First Data Bank recalculated BMS' AWP's and reported them to the State Medicaid agencies and Medicare Carriers as a BMS price increase when in truth it was nothing more than a means of creating a greater "spread" for BMS drugs.

Additionally, the drug companies in question often falsely state that they have no control over the AWP's and other prices published for their drugs. Comparing the following excerpts from a 1996 *Barron's* article entitled, "Hooked On Drugs," and Immunex's own internal documents reveals that drug companies do indeed have control over their prices:

"But Immunex, with a thriving generic cancer-drug business, says its average wholesale prices aren't its own. 'The drug manufacturers have no control over the AWP's published . . .,' says spokeswoman Valerie Dowell" (Exhibit #5).

"Kathleen Stamm, Immunex Corporation . . .

"DEAR KATHLEEN: This letter is a confirmation letter that we have received and entered your latest AWP price changes in our system. The price changes that were effective January 3, 1996 were posted in our system on January 5, 1996. I have enclosed an updated copy of your Red Book listing for your files. If there is anything else I could help you with do not hesitate to call.

Sincerely, Lisa Brandt, Red Book Data Analyst" (Exhibit #6)

The drug companies involved are well aware of the destructive impact their price manipulation has on prescription drug costs, as stated in the following excerpt from a Glaxo internal document:

"Is the [pharmaceutical] industry helping to moderate health care costs when it implements policies that increase the cost of pharmaceuticals to government?" (Exhibit #4).

These examples of clear deception appear to be "only the tip of the iceberg" as demonstrated by the evidence reflected in composite Exhibit #5. This evidence indicates that an official of the state of Florida Medicaid pharmacy program contacted Hoechst