



July 26, 2017

Honorable Lisa Murkowski  
Chairman  
Committee on Energy  
and Natural Resources  
United States Senate  
Washington, DC 20510

*Re: Cost estimate for an amendment in the nature of a substitute to  
S. 1460, the Energy and Natural Resources Act of 2017 (FLO17512).*

Dear Madam Chairman:

As you requested, the Congressional Budget Office (CBO) has reviewed an amendment in the nature of a substitute to S. 1460, the Energy and Natural Resources Act of 2017 (FLO17512), provided to CBO on July 18, 2017.

CBO estimates that enacting the legislation would increase net direct spending by \$614 million over the 2018-2021 period. Under requirements established in section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016, which specifies an alternative method for determining budgetary effects in the Senate, CBO estimates that the legislation would reduce spending by \$16 million.

The legislation would amend current law and authorize appropriations for a broad range of activities administered primarily by the Department of Energy (DOE) and the Department of the Interior. It would expand and extend federal agencies' authority to use energy savings performance contracts (ESPCs) and utility energy service contracts (UESCs)—specific types of long-term contracts—to invest in energy conservation measures and services. The bill also would permit the Bureau of Land Management (BLM) to spend, without further Congressional action, proceeds from sales of certain federal lands; rescind unobligated funds that were provided for loan guarantees under Title 17 that were originally designated as an emergency requirement; and authorize certain land transfers and conveyances.

Enacting the amendment to S. 1460 would increase direct spending; therefore, pay-as-you go procedures apply. Enacting the legislation would not affect revenues. Many of its provisions would affect federal spending that is subject to appropriation; however, CBO has not completed an estimate of those costs, except for the provisions related to ESPCs and UESCs.

The estimated amount of direct spending under the legislation depends on the budgetary treatment of federal commitments made through ESPCs and UESCs, which CBO expects would increase under the bill. In CBO's view, commitments under those contracts are a form of direct spending because agencies are authorized to enter into them without funds appropriated in advance to cover the full costs. Incorporating the spending for those contracts, CBO estimates that enacting the legislation would increase net direct spending by \$614 million over the 2018-2027 period (see Table 1). That amount comprises:

- Increased outlays of \$630 million for expanding and extending federal agencies' authority to use ESPCs and UESCs for energy-related investments;
- Decreased outlays of \$15 million from permanently reauthorizing the Federal Land Transaction Facilitation Act and allowing certain agencies to spend, without further appropriation, a portion of the proceeds from the sale of certain lands administered by BLM (net spending would decline because the spending of the proceeds would lag the receipt of those amounts by a few years);
- Decreased outlays of \$9 million from rescinding unobligated balances provided for loan guarantees under Title 17; and
- Increased net outlays of \$8 million from conveying federally owned portions of Oregon and California Railroad grant lands in Oregon to local Indian tribes.

However, for purposes of determining budget-related points of order for legislation considered by the Senate, section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016 specifies how CBO should prepare estimates of the budgetary effects related to ESPCs or UESCs. Specifically, that resolution requires CBO to estimate, on a net-present-value basis, the lifetime net cost or savings attributable to projects financed by such contracts and to record that amount as an upfront change in

spending subject to appropriation. Under that requirement and because the spending for those contracts would not be considered direct spending, CBO estimates that enacting the legislation would reduce net direct spending by \$16 million over the 2018-2027 period (see the memorandum to Table 1). Using those procedures CBO estimates that increasing the authority to use ESPCs and UESCs would reduce spending subject to appropriation by \$40 million over the 2017-2027 period on a net-present-value basis.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that the net changes in outlays that are subject to those pay-as-you-go procedures under the substitute amendment to S. 1460 would total \$623 million over the 2017-2027 period (see Table 2). That amount includes CBO's estimate of increased direct spending related to ESPCs and UESCs following the agency's usual methods because section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016 does not apply to pay-as-you-go estimates. That estimate also excludes reductions in spending from rescinding funds that were provided for loan guarantees under Title 17 because the Statutory Pay-As-You-Go Act requires that estimates of budgetary effects exclude costs or savings related to funding designated as an emergency requirement.

Enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

The legislation would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA). The amendment would require public and private entities regulated by the Federal Energy Regulatory Commission (FERC), such as electric utilities, to pay fees in some circumstances. The legislation would impose an additional intergovernmental mandate by requiring state and tribal governments to certify to DOE whether they have updated residential and commercial building codes to meet the latest standards developed by building efficiency organizations. Based on information from DOE about the fees that FERC would charge and the costs of certification requirements, CBO estimates that the aggregate cost of complying with the intergovernmental mandates would fall below the annual threshold established in UMRA (\$78 million in 2017, adjusted annually for inflation). The bill would provide federal funding to state and tribal agencies to help cover these costs and to fund an array of other voluntary activities.

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The legislation also would impose private-sector mandates on electric transmission organizations, traders of oil contracts, and manufacturers of consumer products and equipment. The cost of most of the mandates on private entities would be small. However, because the mandate on manufacturers of consumer products would depend on the nature and scope of future energy efficiency standards set by DOE, CBO cannot determine whether the aggregate cost of complying with private-sector mandates in the bill would exceed the annual threshold established in UMRA (\$156 million in 2017, adjusted annually for inflation).

I hope this information is useful to you. If you need additional details, we would be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs), Jon Sperl (for intergovernmental mandates) and Amy Petz (for private-sector mandates).

Sincerely,

A handwritten signature in black ink that reads "Keith Hall" with a stylized flourish at the end.

Keith Hall  
Director

Enclosure

cc: Honorable Maria Cantwell  
Ranking Member

**TABLE 1. ESTIMATED DIRECT SPENDING EFFECTS OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1460 (FLO17512)**

	By Fiscal Year, in Millions of Dollars											2017-	2017-
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2022	2027
<b>INCREASES IN DIRECT SPENDING <sup>a</sup></b>													
Federal Obligations Under ESPCs and UESCs <sup>b</sup>													
Estimated Budget Authority	0	70	70	70	70	70	70	70	70	70	70	350	700
Estimated Outlays	0	21	49	70	70	70	70	70	70	70	70	280	630
All Other Provisions													
Estimated Budget Authority	0	-479	0	1	1	1	1	1	1	1	1	-476	-471
Estimated Outlays	0	-1	-2	-1	-1	-1	-2	-2	-2	-2	-2	-6	-16
Total													
Estimated Budget Authority	0	-409	70	71	71	71	71	71	71	71	71	-126	229
Estimated Outlays	0	20	47	69	69	69	68	68	68	68	68	274	614

**Memorandum: Estimated Direct Spending Effects Following Methods Required by section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016 <sup>c</sup>**

Federal Obligations Under ESPCs and UESCs <sup>d</sup>													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0	0
All Other Provisions													
Estimated Budget Authority	0	-479	0	1	1	1	1	1	1	1	1	-476	-471
Estimated Outlays	0	-1	-2	-1	-1	-1	-2	-2	-2	-2	-2	-6	-16
Total													
Estimated Budget Authority	0	-479	0	1	1	1	1	1	1	1	1	-476	-471
Estimated Outlays	0	-1	-2	-1	-1	-1	-2	-2	-2	-2	-2	-6	-16

Notes: ESPCs = energy savings performance contracts. UESCs = Utility Energy Service Contracts.

- The estimates reflect CBO's view of how cash flows related to ESPCs and similar contracts (including UESCs) should be recorded in the federal budget.
- Estimated budget authority reflects the value of energy conservation measures as installed plus the net present value of a portion of vendors' borrowing costs attributable to contract interest rates that would exceed U.S. Treasury interest rates. Estimated outlays stemming from such commitments are spread across the period during which the vendor is expected to construct, manufacture, or purchase energy conservation assets on behalf of the federal government.
- Section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016 requires CBO to calculate, on a net-present-value basis, the lifetime net cost or savings attributable to projects financed by ESPCs and UESCs and to record that amount as an upfront change in spending subject to appropriation in the year when commitments are expected to be made.
- Under the procedures specified in the budget resolution, spending for ESPCs and UESCs would be treated as spending subject to appropriation. CBO estimates that under those procedures, spending subject to appropriation would decrease by \$40 million over the 2017-2027 period.

**TABLE 2. CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1460 (FLO17512)<sup>a</sup>**

	By Fiscal Year, in Millions of Dollars												2017-	2017-
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2022	2027	
<b>NET INCREASE IN THE DEFICIT</b>														
Total change	0	20	47	69	69	69	68	68	68	68	68	274	614	
Less:														
Designated as Emergency Requirements <sup>b</sup>	0	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-9	
Statutory Pay-As-You-Go Impact	0	20	48	70	70	70	69	69	69	69	69	278	623	

a. The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. Section 3207 of the Concurrent Resolution on the Budget for Fiscal Year 2016 does not apply to estimates for the Statutory Pay-As-You-Go Act; thus, the amounts shown here reflect CBO's estimates of direct spending effects.

b. Section 4001 of the legislation would rescind budget authority for the Title 17 Loan Guarantee Program that was originally designated as an emergency requirement. Pursuant to section 4 (g) of the Statutory Pay-As-You-Go Act, estimated savings stemming from that proposed rescission are excluded from totals.