



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 7, 2018

H.R. 3608
Endangered Species Transparency and Reasonableness Act

*As ordered reported by the House Committee on Natural Resources
on September 27, 2018*

H.R. 3608 would direct the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration to make the data used as the basis for listing a species for protection under the Endangered Species Act (ESA) publicly available. The bill also would require certain agencies (such as the Forest Service and the Bonneville Power Administration) to provide information to the USFWS on ESA lawsuits, and would direct the USFWS to make that information publicly available in a searchable database. Based on the costs of similar activities, CBO estimates that implementing the bill would cost less than \$500,000; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 3608 would affect direct spending; therefore, pay-as-you-go procedures apply. Under current law, plaintiffs who challenge the federal government under the ESA may be entitled to the repayment of attorneys' fees. Such payments are made from the Judgment Fund, which has a permanent indefinite appropriation. Section 5 would cap attorney fees awarded under the ESA to \$125 per hour, adjusted for cost of living and other factors. Based on the amount of attorneys' fees paid to plaintiffs under the ESA in the past, CBO expects that amounts awarded to attorneys under the bill would be slightly less than amounts awarded under current law. In addition, the bill could affect spending by the Bonneville Power Administration, which is not funded through annual appropriations acts. On net, CBO estimates that enacting H.R. 3608 would reduce direct spending by an insignificant amount. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3608 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3608 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On February 12, 2018, CBO transmitted a cost estimate for H.R. 3131, the Endangered Species Litigation Reasonableness Act, as ordered reported by the House Committee on Natural Resources on October 4, 2017. H.R. 3131 is similar to section 5 of H.R. 3608, and CBO's estimates of the budgetary effects of those provisions are the same.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.