



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

December 7, 2018

S. 2160

Protect Collaboration for Healthier Forests Act

*As reported by the Senate Committee on Energy and Natural Resources
on December 5, 2018*

S. 2160 would direct the Forest Service to establish an arbitration pilot program in lieu of judicial review for certain projects located in Idaho, Montana, and Wyoming. The bill would require the Forest Service to issue a rule for the pilot program, develop a list of eligible arbitrators, pay professional fees to arbitrators, and report to the Congress on the program. S. 2160 also would direct the Government Accountability Office (GAO) to study the results of the pilot program.

According to the Department of Justice, environmental and natural resource cases resolved through alternative dispute resolution—such as arbitration—typically take less time and require fewer resources than cases resolved through litigation. The bill would limit the number of projects subject to arbitration to two projects each year. On that basis, and using information from the Forest Service, CBO estimates that any costs to the Forest Service to implement the pilot program would be offset by savings in federal staff time and litigation expenses, such that the net change in discretionary costs would be negligible. Based on the costs of similar tasks, CBO estimates that the GAO study would cost less than \$500,000; such spending would be subject to the availability of appropriated funds.

Enacting S. 2160 could affect direct spending because, under current law, plaintiffs who challenge the federal government under the Endangered Species Act may be entitled to the repayment of attorneys' fees. Such payments are made from the federal government's Judgment Fund, which has a permanent indefinite appropriation. By prohibiting the award of attorney fees for cases resolved under the pilot program, CBO expects that S. 2160 could reduce the potential for payments from the Judgment Fund. CBO expects that a small number of cases would be resolved under the pilot program; thus, we estimate that any decrease in direct spending would be insignificant over the 2019-2028 period.

Because enacting the bill would affect direct spending, pay-as-you-go procedures apply. The bill would not affect revenues.

CBO estimates that enacting S. 2160 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

The bill would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by limiting rights of action for entities seeking judicial review of certain forest projects. Because those rights of action do not generally result in monetary damages and the pilot program is limited to two projects each year, CBO estimates that the cost of the mandates would fall below the intergovernmental and private-sector mandates established in UMRA (\$80 million and \$160 million in 2018, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Janani Shankaran (for federal costs) and Zachary Byrum (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.