

110TH CONGRESS  
1ST SESSION

# S. 2231

To authorize the Secretary of the Interior to strengthen cooperative conservation efforts and to reduce barriers to the use of partnerships to enable Federal natural resource managers to meet their obligations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2007

Mr. BINGAMAN (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the Secretary of the Interior to strengthen cooperative conservation efforts and to reduce barriers to the use of partnerships to enable Federal natural resource managers to meet their obligations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cooperative Conserva-  
5 tion Enhancement Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1           (1) fostering innovation, emphasizing partner-  
2           ships, creating incentives for stewardship, drawing  
3           on information from local citizens, and providing in-  
4           tegrated decision-making frameworks that involve  
5           States and localities in Federal decision-making are  
6           successful cooperative conservation strategies that  
7           help conserve our Nation’s natural resources and  
8           protect our environment;

9           (2) Americans favor environmental protection  
10          and natural resource management achieved through  
11          cooperation over conflict, which is the goal of cooper-  
12          ative conservation;

13          (3) successful conservation policies reside in the  
14          efforts of citizens to maintain healthy land and wa-  
15          ters and the wildlife that depend on them, in par-  
16          ticular, in the actions of citizens in their own back-  
17          yards, at their places of recreation and work, on  
18          farms and ranches, and in communities across the  
19          Nation;

20          (4) to ensure long-term benefits and to meet  
21          program goals, it is important for Federal, State,  
22          and local officials to tap the ingenuity, imagination,  
23          and innovative spirit of citizens at the local level,  
24          which is where the resolution to many conservation  
25          challenges lies;

1           (5) cooperative conservation represents a proven  
2           and necessary approach to achieving conservation  
3           goals, and includes the people who engage in activi-  
4           ties on public and private land and established meas-  
5           ures by which to judge whether actions have truly  
6           improved the environment, enhanced natural re-  
7           sources, maintained healthy local communities, and  
8           fostered dynamic economies;

9           (6) through cooperative conservation, benefits  
10          to the environment and natural resources are meas-  
11          ured by results on the ground, in the water, and in  
12          the air;

13          (7) cooperative conservation emphasizes cooper-  
14          ative problem solving, incentives, and cooperation  
15          over prescriptive rules;

16          (8) cooperative conservation respects property  
17          rights, contracts, and compacts;

18          (9) actions taken by the Executive Branch to  
19          further cooperative conservation have begun to show  
20          tangible results in addressing the challenges that  
21          citizens and Federal land managers are facing as  
22          they work to improve land, waters, and wildlife habi-  
23          tat through partnered problem solving;

24          (10) it is the intent of Congress to recognize  
25          the importance of enhancing means available to

1 landowners, States, Indian tribes, and Federal land  
2 managers to achieve improvements to the environ-  
3 ment and natural resources through cooperative con-  
4 servation; and

5 (11) the Secretary of the Interior is generally  
6 authorized to undertake many activities with part-  
7 ners to conserve natural resources and protect the  
8 environment, but that specific authorization to ac-  
9 complish these goals through cooperative conserva-  
10 tion would reinforce the importance of these goals.

11 (b) PURPOSES.—The purposes of this Act are—

12 (1) to strengthen and advance the Department  
13 of the Interior’s commitment to the improvement of  
14 the environment and enhancement of natural re-  
15 sources through cooperative conservation efforts;

16 (2) to advance successful models of cooperative  
17 conservation by ensuring clear, but flexible, author-  
18 ity for programs currently carried out by the De-  
19 partment through its bureaus under many disparate  
20 authorities;

21 (3) to expand the use of cooperative conserva-  
22 tion by providing the Secretary of the Interior with  
23 new authorities to better promote conservation part-  
24 nerships with private individuals, organizations, and  
25 government entities;

1           (4) to further the use of partnerships to help  
2 the Department’s land and natural resource man-  
3 agers better meet their obligations;

4           (5) to promote conservation partnership capac-  
5 ity building; and

6           (6) to authorize the use of collaborative problem  
7 solving and alternative dispute resolution in the De-  
8 partment’s bureaus and offices.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11           (1) COOPERATIVE CONSERVATION.—The term  
12 “cooperative conservation” means actions that relate  
13 to the use, enhancement, and enjoyment of natural  
14 resources, protection of the environment, or both,  
15 and that involve collaborative activity among Fed-  
16 eral, State, local, and tribal governments, private  
17 for-profit and nonprofit institutions, other non-  
18 governmental entities, or individuals.

19           (2) DEPARTMENT.—The term “Department”  
20 means the Department of the Interior.

21           (3) SECRETARY.—The term “Secretary” means  
22 the Secretary of the Interior.

1 **TITLE I—WORKING LANDSCAPE**  
2 **PROJECTS**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Working Landscape  
5 Projects Act of 2007.”

6 **SEC. 102. DEFINITIONS.**

7 In this title:

8 (1) ADMINISTRATIVE SERVICES.—The term  
9 “administrative services” includes services and costs  
10 associated with the operations of activities author-  
11 ized under this title. These services and costs shall  
12 include meeting announcements, copying, and per-  
13 sonnel and reasonable rental costs for facilities nec-  
14 essary for implementing this title. Such services and  
15 costs shall be consistent with applicable Federal  
16 rules, regulations, and guidance.

17 (2) GOVERNANCE ACTIVITIES.—The term “gov-  
18 ernance activities” means those activities required to  
19 ensure the operation and implementation of projects  
20 described under this title, including hiring personnel  
21 to coordinate project implementation, providing over-  
22 sight and monitoring of projects and project goals,  
23 performing adaptive management techniques on  
24 projects, coordinating activities with various part-  
25 ners, performing scientific oversight of projects, in-

1 including commissioning scientific studies, and re-  
 2 requesting data from Federal, State, and local govern-  
 3 ment officials, nonprofit organizations, and private  
 4 individuals.

5 (3) INFORMATION DISSEMINATION ACTIVI-  
 6 TIES.—The term “information dissemination activi-  
 7 ties” includes broadcasting the announcement of  
 8 meetings and the distribution of reports, memos,  
 9 and other relevant information necessary for car-  
 10 rying out the authorities under this title.

11 (4) LANDSCAPE PROJECT PARTNER.—The term  
 12 “landscape project partner” means a representative  
 13 of Federal, State, or tribal governments, private  
 14 landowners or corporations, or nonprofit organiza-  
 15 tions.

16 **SEC. 103. AUTHORIZATION FOR ADMINISTRATIVE, GOVERN-**  
 17 **ANCE, AND INFORMATION DISSEMINATION**  
 18 **PURPOSES.**

19 (a) IN GENERAL.—(1) The Secretary is authorized,  
 20 through a competitive process, to directly fund or reim-  
 21 burse landscape project partners for the development or  
 22 maintenance of necessary administrative services, govern-  
 23 ance activities, and information dissemination activities  
 24 necessary for the implementation of a landscape project.

1           (2) The funding under paragraph (1) shall not exceed  
2 3 years for a particular project.

3           (3) In order to qualify for administrative funding, a  
4 project shall—

5                 (A) include participation by representatives  
6 from a diversity of individuals and organizations, in-  
7 cluding government;

8                 (B) affect several jurisdictions or land owner-  
9 ships; and

10                (C) have the potential for advancing cooperative  
11 conservation across a geographical area.

12           (b) ELIGIBLE PROJECTS.—Such projects may in-  
13 clude—

14                 (1) established cooperative projects that have a  
15 documented record of success and demonstrated  
16 leadership and organizational capacity;

17                 (2) existing conservation projects that are at  
18 the stage of forming partnerships and require sus-  
19 tained capacity building; or

20                 (3) new or proposed projects that have a plan  
21 for establishing partnerships and developing land-  
22 scape-based projects.

23           (c) CRITERIA.—Eligible applications shall—

24                 (1) exhibit a clear purpose;

1           (2) demonstrate, or have a plan for estab-  
2           lishing, partnerships which include representation of  
3           key interests through multiple partners;

4           (3) use, or plan to use in the future, coordi-  
5           nated management with Federal and other partners;

6           (4) have developed performance goals and ob-  
7           jectives consistent, where appropriate, with depart-  
8           mental goals;

9           (5) have developed a plan for implementing,  
10          monitoring, and evaluating achievement of project  
11          performance goals and objectives;

12          (6) include non-Federal partners who commit  
13          resources to the project such as technical resources  
14          or other funds, in-kind services, contributions of in-  
15          dividuals' time, or meeting support;

16          (7) demonstrate processes, practices, and out-  
17          comes that can have general application by Federal  
18          agencies and other non-Federal entities;

19          (8) receive Federal funding through a competi-  
20          tive process established by the Secretary; and

21          (9) have or expect to develop a plan for phasing  
22          to an alternative non-Federal source of funds to sus-  
23          tain the partnership at the conclusion of the Federal  
24          partnership period.

1 (d) CONSERVATION PROJECT COORDINATOR.—(1)  
2 Within 3 months after the date of enactment of this Act,  
3 the Secretary may designate a Department employee as  
4 a Conservation Project Coordinator (referred to in this  
5 subsection as the “Coordinator”), who shall—

6 (A) serve as the primary Federal coordinator of  
7 the projects that receive funding under this section;  
8 and

9 (B) oversee and encourage the expedited review  
10 and execution of any and all Federal decisions asso-  
11 ciated with such projects, including the issuance of  
12 necessary guidance, decision memoranda, regula-  
13 tions, and other activities, as necessary.

14 (2) The Coordinator may also carry out such other  
15 related cooperative conservation related activities and  
16 projects as the Secretary deems appropriate.

17 (3) All actions carried out by the Coordinator shall  
18 be related to the authorized programs and activities of the  
19 Department.

20 **SEC. 104. FUNDING.**

21 For the purpose of implementing section 103 and  
22 from amounts available for programs identified in the  
23 President’s annual budget submission as Cooperative Con-  
24 servation Programs, the Secretary is authorized to use—

1 (1) up to 5 percent of the funds made available  
2 for fiscal year 2008;

3 (2) up to 6 percent of the funds made available  
4 for fiscal year 2009; and

5 (3) up to 7 percent of the funds made available  
6 for fiscal year 2010.

7 **TITLE II—LANDOWNER CONSER-**  
8 **VATION ASSISTANCE MEA-**  
9 **SURES**

10 **SEC. 201. SHORT TITLE.**

11 This title may be cited as the “Conservation Bank  
12 Program Act”.

13 **SEC. 202. DEFINITIONS.**

14 In this title:

15 (1) **BANK OPERATOR.**—The term “bank oper-  
16 ator” means any public or private entity responsible  
17 for operating or managing a conservation bank  
18 under an agreement with a bank sponsor.

19 (2) **BANK SPONSOR.**—The term “bank sponsor”  
20 means any public or private entity responsible for es-  
21 tablishing and, in most circumstances, operating or  
22 managing a conservation bank and for ensuring that  
23 the conservation bank complies with all applicable  
24 laws.

1           (3) CONSERVATION BANK.—The term “con-  
2           servation bank” means a parcel of land that—

3                   (A) contains natural resource values that  
4                   are ecologically suitable with regard to topo-  
5                   graphic features, habitat quality, compatibility  
6                   of existing and future land use activities sur-  
7                   rounding the bank, species use of the area, or  
8                   any other factors determined to be relevant by  
9                   the Secretary for achieving mitigation of speci-  
10                  fied species listed pursuant to the Endangered  
11                  Species Act of 1973 (16 U.S.C. 1531 et seq.)  
12                  or candidates for listing under that Act;

13                  (B) is conserved and operated or managed  
14                  in perpetuity through a conservation easement  
15                  held by a bank sponsor which is responsible for  
16                  enforcing the terms of the easement for speci-  
17                  fied species listed pursuant to the Endangered  
18                  Species Act of 1973 (16 U.S.C. 1531 et seq.)  
19                  or which are candidates for listing under that  
20                  Act; and

21                  (C) is used to offset impacts occurring  
22                  elsewhere to the same resource values on non-  
23                  conservation bank land.

24           (4) CONSERVATION BANK AGREEMENT.—The  
25           term “conservation bank agreement” means a legally

1 enforceable written agreement between the conserva-  
2 tion bank sponsor and, if applicable, operator, and  
3 the Secretary that identifies the conditions and cri-  
4 teria under which the conservation bank will be es-  
5 tablished and operated or managed.

6 (5) CONSERVATION BANK REVIEW TEAM.—The  
7 term “Conservation Bank Review Team” means the  
8 interagency group that can include Federal, State,  
9 tribal, and local regulatory and resource agency rep-  
10 resentatives that are signatories to a conservation  
11 bank agreement and which oversee the establish-  
12 ment, use, and operation of a conservation bank.

13 (6) CREDIT.—The term “credit” means a unit  
14 of measure representing the quantification of species  
15 or habitat conservation values within a conservation  
16 bank.

17 **SEC. 203. ESTABLISHMENT, USE, AND OPERATION OF CON-**  
18 **SERVATION BANKS.**

19 (a) CONSERVATION BANKING.—(1) The Secretary,  
20 acting through the United States Fish and Wildlife Serv-  
21 ice, shall select the members of and convene a Conserva-  
22 tion Bank Review Team to evaluate for acceptance pro-  
23 posals received from bank sponsors to establish conserva-  
24 tion banks according to criteria that the Secretary shall  
25 establish in accordance with subsection (b).

1           (2) If the Conservation Bank Review Team rec-  
2 ommends a proposal, it shall present the proposal to the  
3 Secretary, who may modify or accept the proposal.

4           (3) If the Secretary accepts the proposal, the Sec-  
5 retary may enter into a conservation bank agreement and  
6 is responsible for establishing the terms under which the  
7 conservation bank will operate.

8           (4) Representatives on the Conservation Bank Re-  
9 view Team must unanimously agree in order for an accept-  
10 ance to be transmitted to the Secretary.

11           (b) CRITERIA FOR CONSERVATION BANKS.—In de-  
12 termining whether to approve a conservation bank pro-  
13 posal, a Conservation Bank Review Team shall consider  
14 such factors as the Secretary determines are appropriate,  
15 including whether the conservation bank would—

16           (1) provide an economically effective process  
17 that provides options to landowners to offset the ad-  
18 verse effects of proposed projects to species covered  
19 by the conservation bank;

20           (2) provide adequate mitigation for the species  
21 through such strategies as preservation, manage-  
22 ment, restoration of degraded habitat, connecting of  
23 separated habitats, buffering of already protected  
24 areas, creation of habitat, and other appropriate ac-  
25 tions;

1           (3) be of sufficient size to ensure the mainte-  
2 nance of ecological integrity in perpetuity; and

3           (4) provide funding assurances to provide for  
4 the conservation bank's perpetual operation, man-  
5 agement, monitoring, and documentation costs.

6           (c) CONSERVATION BANK AGREEMENT REQUIRE-  
7 MENTS.—The bank agreement shall—

8           (1) include a requirement for adequate funding,  
9 as determined by the Secretary, to provide for the  
10 conservation bank's perpetual operation, manage-  
11 ment, monitoring, and documentation costs;

12           (2) specify the exact legal location of the con-  
13 servation bank and its service area;

14           (3) specify how credits will be established and  
15 managed;

16           (4) include a requirement that the bank sponsor  
17 submit, at the Secretary's request, periodic state-  
18 ments detailing the finances of the conservation  
19 bank; and

20           (5) require submission to the Secretary of peri-  
21 odic monitoring reports on implementation of the  
22 conservation bank agreement and such other matters  
23 as the Secretary may prescribe.

24           (d) JUDICIAL REVIEW.—Any party to an agreement  
25 entered into under this section may bring an action for

1 violation of that agreement in the United States District  
2 Court for the District of Columbia.

3 (e) EFFECT ON EXISTING CONSERVATION BANKS.—  
4 Conservation banks established before the date of enact-  
5 ment of this Act are not required to comply with the cri-  
6 teria in this Act, except where such conservation banks  
7 create new conservation banks that are separate from the  
8 existing bank.

9 **TITLE III—PROMOTING**  
10 **PARTNERSHIPS**

11 **SEC. 301. COOPERATION WITH OUTSIDE ENTITIES.**

12 Except as otherwise provided, in carrying out existing  
13 programs within the sums appropriated for such purposes,  
14 the Secretary or a designee is authorized to—

15 (1) provide assistance to, and cooperate with,  
16 Federal, State, local, public or private agencies, or-  
17 ganizations, or individuals or Indian tribes for pur-  
18 poses of carrying out any measures that clearly and  
19 directly contribute to achieving conservation or nat-  
20 ural resource management-related mission and per-  
21 formance goals of the Department or its bureaus;  
22 and

23 (2) accept donations of land and or interests in  
24 land in furtherance of the purposes of this section.

1 **SEC. 302. ABILITY TO EXPEND FUNDS TO BENEFIT DEPART-**  
2 **MENT LAND.**

3 (a) **AUTHORIZATION OF ACTIVITIES.**—In carrying  
4 out existing programs within the sums appropriated for  
5 such purposes, the Secretary or a designee is authorized  
6 to carry out activities on non-federally owned land pro-  
7 vided those activities directly benefit the resource values  
8 and management of Federal land, including—

9 (1) the preservation, conservation, and restora-  
10 tion of coastal and riparian systems, watersheds,  
11 and wetlands;

12 (2) the prevention, control, or eradication of  
13 invasive exotic species that occupy adjacent non-Fed-  
14 eral land; or

15 (3) the restoration of natural resources, includ-  
16 ing native wildlife habitat.

17 (b) **LIMITATIONS.**—Such activities may only be con-  
18 ducted with the written permission of the landowner, and  
19 must clearly and directly benefit the specific Department  
20 land management unit by directly contributing to the pro-  
21 grammatic and performance goals of that unit.

22 (c) **INELIGIBLE ACTIVITIES.**—Eligible activities shall  
23 not include the construction of permanent capital improve-  
24 ments or acquisition of land.

1 (d) RELATIONSHIP TO EXISTING PROGRAMS.—Noth-  
2 ing in this section supersedes or otherwise affects or alters  
3 the authority provided in title V.

4 **SEC. 303. PUBLICIZING AND PROVIDING NON-FINANCIAL**  
5 **ASSISTANCE TO PARTNERSHIPS.**

6 (a) IN GENERAL.—In carrying out existing programs  
7 within the sums appropriated for such purposes, the Sec-  
8 retary or a designee is authorized to—

9 (1) publicize partnership programs and oppor-  
10 tunities through publication of announcements in  
11 newspapers of general circulation, in the Federal  
12 Register, or such other methods as the Secretary de-  
13 termines are appropriate; and

14 (2) provide nonfinancial assistance to private  
15 individuals who are establishing nonprofit groups  
16 that are intended to support the mission of a bureau  
17 or of a particular management unit of a bureau,  
18 such as a park or refuge.

19 (b) CLARIFICATIONS.—(1) Nothing in this section  
20 shall authorize a Department employee to establish a non-  
21 profit entity or other corporate entity to support the De-  
22 partment's mission, including by acting as an incorpo-  
23 rator, founding board member, or by assuming any man-  
24 agement or fiduciary responsibilities with respect to any  
25 such nonprofit or corporate entity.

1           (2) Nothing in this section shall waive the application  
2 of the provisions of section 1913 of title 18, United States  
3 Code.

4 **SEC. 304. CENTERS OF EXCELLENCE FOR PARTNERSHIP**  
5 **LEARNING.**

6           (a) DEFINITION OF CENTER OF EXCELLENCE FOR  
7 PARTNERSHIP LEARNING.—In this section, the term  
8 “Center of Excellence for Partnership Learning” or “Cen-  
9 ter” means a Federal facility that is identified by the ap-  
10 propriate Secretary as meeting criteria established under  
11 this section and which provides Federal employees and  
12 their partners the opportunity to learn cooperative con-  
13 servation-related best practices.

14           (b) IN GENERAL.—(1) In carrying out existing pro-  
15 grams within the sums appropriated for such purposes,  
16 the Secretary and the Secretary of Agriculture may iden-  
17 tify as Centers of Excellence for Partnership Learning  
18 sites under their jurisdiction that meet the criteria in sub-  
19 section (c) with the purpose of providing Federal employ-  
20 ees and partners, including State and local government  
21 employees, nonprofit employees, private sector employees,  
22 and employees of Indian tribes, the opportunity to learn  
23 the best practices involved in creating successful partner-  
24 ships and a culture of collaboration.

1           (2) Each Center identified under this section may de-  
2 velop and host a schedule of activities including—

3                   (A) visits;

4                   (B) seminars and other educational courses;

5           and

6                   (C) opportunities for details or job swaps.

7           (3) To the maximum extent practicable, each Center  
8 shall develop and accept applications for participation in  
9 Center activities from employees of the Department or the  
10 Department of Agriculture or of their partnering entities  
11 on a first-come, first-served basis.

12           (c) CRITERIA FOR IDENTIFYING CENTERS OF EX-  
13 CELLENCE FOR PARTNERSHIP LEARNING.—Each Center  
14 shall be identified based on the following criteria:

15                   (1) Partnership culture has been successfully  
16 integrated into the organization, and is not depend-  
17 ent on any particular individual.

18                   (2) The organization has demonstrated partner-  
19 ship success stories that relate to identified partner-  
20 ship competencies.

21                   (3) The organization has the capacity to host  
22 and teach others from the participating agencies.

23                   (4) The organization agrees to a schedule of  
24 hosting activities.

1           (5) The organization is willing to host follow-up  
2           activities with participating individuals.

3           (d) INCENTIVES FOR PARTICIPATION.—(1) The re-  
4           spective Secretary for each Center identified in this section  
5           is authorized to accept and use reimbursement from the  
6           participating agencies and partnering entities for the cost  
7           of operating the program.

8           (2) The respective Secretary for each Center is au-  
9           thorized to provide reimbursement of travel and per diem  
10          expenses to Federal employees who participate in Center  
11          activities.

12       **SEC. 305. PARTNERSHIP ROSTER.**

13          (a) IN GENERAL.—The Secretary and the Secretary  
14          of Agriculture may establish and make available to the  
15          public a multiagency roster with the goal of enhancing ca-  
16          pacity for partnerships and collaborative actions.

17          (b) AUTHORIZED ACTIVITIES.—The partnership ros-  
18          ter authorized under this section shall provide nonfinancial  
19          assistance and information to government agencies, pri-  
20          vate sector organizations, and the public in a variety of  
21          areas, including—

22                  (1) identification and understanding of statu-  
23          tory and regulatory authorities;

1           (2) development and implementation of agree-  
2           ments and contracts used in Department and De-  
3           partment of Agriculture programs;

4           (3) creation and management of nonprofit sup-  
5           port groups;

6           (4) diversification and strengthening of agency  
7           funding through the use of partnerships, matching  
8           funds, and other devices;

9           (5) allowable avenues for and uses of private  
10          philanthropy;

11          (6) development of a partnership-focused work-  
12          place;

13          (7) building of community connections and fos-  
14          tering of citizen engagement through the use of  
15          partnerships;

16          (8) allowable avenues for donor recognition;

17          (9) development of communication skills; and

18          (10) conflict management and collaborative  
19          management.

20           **TITLE IV—COOPERATION**  
21           **AMONG FEDERAL AGENCIES**

22   **SEC. 401. SERVICE FIRST AUTHORITY.**

23          (a) IN GENERAL.—The Secretary, through the Direc-  
24          tors of the Bureau of Land Management, the U.S. Fish  
25          and Wildlife Service, and the National Park Service, and

1 the Secretary of Agriculture, through the Chief of the U.S.  
2 Forest Service, may—

3 (1) conduct projects, planning, permitting, leas-  
4 ing, including leasing of real property and office  
5 space, contracting and other activities, either jointly  
6 or on behalf of one another;

7 (2) co-locate in Federal offices and facilities  
8 leased or owned by an agency of either Department;

9 (3) promulgate special rules for issuance of uni-  
10 fied permits, applications, and leases; and

11 (4) share or transfer equipment, vehicles, or  
12 other personal property.

13 (b) DELEGATION OF AUTHORITY.—Consistent with  
14 section 403, the Secretary and the Secretary of Agri-  
15 culture may make reciprocal delegations of their respective  
16 authorities, duties, and responsibilities in support of the  
17 activities authorized in this title to promote customer serv-  
18 ice and efficiency.

19 **SEC. 402. USE OF FUNDS.**

20 (a) IN GENERAL.—In carrying out the provisions of  
21 this title, the Secretary and the Secretary of Agriculture  
22 may make transfers of funds available and reimbursement  
23 of funds on an annual basis among the Bureau of Land  
24 Management, the U.S. Fish and Wildlife Service, the Na-  
25 tional Park Service, and the U.S. Forest Service, including

1 transfers and reimbursements for multiyear projects that  
 2 involve 1 or more of those agencies.

3 (b) LIMITATION.—The authority provided in this title  
 4 may not be used to circumvent requirements and limita-  
 5 tions imposed on the use of funds.

6 **SEC. 403. CONSTRUCTION.**

7 Nothing in this title shall alter, expand, or limit the  
 8 applicability of any public law or regulation to land admin-  
 9 istered by the participating agencies of either Department.

10 **TITLE V—COOPERATIVE**  
 11 **ASSISTANCE**

12 **SEC. 501. FISH AND WILDLIFE SERVICE COASTAL PRO-**  
 13 **GRAM.**

14 (a) DEFINITIONS.—In this section—

15 (1) COASTAL PROGRAM PARTNERS.—The term  
 16 “coastal program partners” means individuals,  
 17 groups, or agencies, such as land conservancies,  
 18 community organizations, businesses, conservation  
 19 organizations, private landowners, State or local gov-  
 20 ernments, and Federal agencies, including any part-  
 21 nerships or consortia of these individuals, groups, or  
 22 agencies, who agree to work on habitat restoration  
 23 or protection strategies under this program.

24 (2) HABITAT RESTORATION.—The term “habi-  
 25 tat restoration” means the manipulation of the phys-

1 ical, chemical, or biological characteristics of a site  
2 with the goal of returning natural functions to the  
3 lost or degraded native habitat.

4 (3) IMPORTANT COASTAL HABITAT.—

5 (A) IN GENERAL.—The term “Important  
6 Coastal Habitat” means habitat in coastal eco-  
7 systems that supports or will support after pro-  
8 tection or restoration threatened and endan-  
9 gered species, fishery resources under the De-  
10 partment’s jurisdiction, and migratory birds.

11 (B) INCLUSIONS.—The term “Important  
12 Coastal Habitat” includes the Great Lakes, Pa-  
13 cific Islands, and the Caribbean, and bays, estu-  
14 aries, coastal streams, and wetlands, shore, and  
15 terrestrial habitats within coastal areas.

16 (4) PRIORITY SPECIES.—The term “priority  
17 species” means threatened and endangered species,  
18 fishery resources under the Department’s jurisdic-  
19 tion, and migratory birds.

20 (5) PROJECT.—The term “project” means a  
21 project carried out under the authority of this sec-  
22 tion in cooperation with coastal program partners  
23 and which has the primary purpose of conserving  
24 important coastal habitat, and which may include  
25 habitat restoration and other technical assistance.

1           (6) TECHNICAL ASSISTANCE.—The term “tech-  
2           nical assistance” means biological and habitat as-  
3           sessments, inventories, project coordination, moni-  
4           toring, mapping, grant writing, and habitat restora-  
5           tion expertise.

6           (b) COASTAL PROGRAM.—The Secretary is author-  
7           ized to carry out the Coastal Program within the United  
8           States Fish and Wildlife Service to assess, conserve, and  
9           restore important coastal habitats for the benefit of pri-  
10          ority species. Projects carried out under this authority  
11          may include activities to identify, evaluate, and map im-  
12          portant coastal habitat, to assist community efforts by  
13          providing assessment and planning tools to identify impor-  
14          tant coastal habitats that are a priority for protection and  
15          restoration, and to provide both technical assistance and  
16          financial assistance, primarily through cooperative agree-  
17          ments, to coastal program partners to plan and implement  
18          projects that benefit coastal wetland, estuaries, upland,  
19          and stream habitats important to priority species.

20          (c) COORDINATION.—The Secretary shall, where ap-  
21          propriate, coordinate with interested Federal agencies on  
22          the program authorized under this section.

23   **SEC. 502. COOPERATIVE CONSERVATION CHALLENGE**  
24                           **COST-SHARE.**

25          (a) DEFINITIONS.—In this section:

1 (1) HABITAT ENHANCEMENT.—

2 (A) IN GENERAL.—The term “habitat en-  
3 hancement” means the manipulation of the  
4 physical, chemical, or biological characteristics  
5 of a native habitat to change, so as to heighten,  
6 intensify, or improve, a specific function or  
7 seral stage of the native habitat.

8 (B) EXCLUSIONS.—The term “habitat en-  
9 hancement” does not include regularly sched-  
10 uled and routine maintenance and management  
11 activities.

12 (2) HABITAT ESTABLISHMENT.—The term  
13 “habitat establishment” means the manipulation of  
14 physical, chemical, or biological characteristics of a  
15 project site to create and maintain habitat that did  
16 not previously exist on the project site.

17 (3) HABITAT IMPROVEMENT.—The term “habi-  
18 tat improvement” includes restoring or artificially  
19 providing physiographic, hydrological, or disturbance  
20 conditions necessary to establish or maintain native  
21 plant and animal communities, including periodic  
22 manipulations to maintain intended habitat condi-  
23 tions on completed project sites.

24 (4) HABITAT RESTORATION.—The term “habi-  
25 tat restoration” means the manipulation of the phys-

1 ical, chemical, or biological characteristics of a site  
2 with the goal of returning natural functions to the  
3 lost or degraded native habitat.

4 (b) CHALLENGE COST SHARE AGREEMENT AUTHOR-  
5 ITY.—

6 (1) IN GENERAL.—The Secretary, acting  
7 through the United States Fish and Wildlife Service,  
8 the National Park Service, or the Bureau of Land  
9 Management, is authorized to negotiate and enter  
10 into cooperative arrangements with any State or  
11 local government, Indian tribe, public or private  
12 agency, organization, institution, corporation, indi-  
13 vidual, or other entity to carry out on a public-pri-  
14 vate cost sharing basis on-the-ground conservation  
15 activities, including functions and responsibilities re-  
16 lating to habitat improvement, habitat restoration,  
17 habitat enhancement, and habitat establishment on  
18 public or private land.

19 (2) PRIVATE LAND.—Projects carried out on  
20 private land require—

21 (A) express permission from landowners;

22 (B) a clear and direct benefit to the spe-  
23 cific Departmental land management unit en-  
24 tering into the arrangement through the direct

1 contribution to the programmatic and perform-  
2 ance goals of that unit; and

3 (C) that the project be adjacent to, or in  
4 close proximity to, land administered by the De-  
5 partment.

6 (3) EFFECT ON EXISTING LAWS.—Nothing in  
7 this section shall be construed to supersede, modify,  
8 or repeal existing laws providing additional cost-  
9 share authorities.

10 (4) COST-SHARING.—(A) The Federal share for  
11 a project authorized under this section may not ex-  
12 ceed 50 percent and shall be provided on a matching  
13 basis.

14 (B) The non-Federal share for a project author-  
15 ized under this section may be satisfied by the provi-  
16 sion of cash, services, or in-kind contributions.

17 **SEC. 503. WATER MANAGEMENT IMPROVEMENT ACT.**

18 (a) SHORT TITLE.—This section may be cited as the  
19 “Bureau of Reclamation Water Management Improve-  
20 ment Act”.

21 (b) AUTHORIZATION OF GRANTS AND COOPERATIVE  
22 AGREEMENTS.—

23 (1) IN GENERAL.—The Secretary is authorized  
24 to enter into grants and cooperative agreements with  
25 States, Indian tribes, irrigation districts, water dis-

1        tricts, or other organizations with water delivery au-  
2        thority to fund up to 50 percent of the cost of plan-  
3        ning, designing, or constructing improvements that  
4        will conserve water, increase water use efficiency, fa-  
5        cilitate water markets, enhance water management,  
6        or implement other actions to prevent water-related  
7        crises or conflicts in watersheds that have a nexus  
8        to Federal water projects within the States identified  
9        in section 1 of the Reclamation Act of 1902 (Act of  
10       June 17, 1902, 32 Stat. 388, chapter 1093) as  
11       amended and supplemented (43 U.S.C. 371 et seq.).

12            (2) CRITERIA.—Grants and cooperative agree-  
13        ments entered into pursuant to this authority shall  
14        meet the following criteria:

15            (A) When such improvements are to feder-  
16        ally owned facilities, funds provided under any  
17        such grant or cooperative agreement may be  
18        provided on a nonreimbursable basis to an enti-  
19        ty operating affected transferred works or may  
20        be deemed nonreimbursable for nontransferred  
21        works.

22            (B) Title to improvements made to feder-  
23        ally owned facilities shall be held by the United  
24        States.

1           (C) The calculation of the non-Federal  
2 contribution shall provide for consideration of  
3 the value of any in-kind contributions which the  
4 Secretary determines materially contribute to  
5 the completion of the proposed action, but shall  
6 not include funds received from other Federal  
7 agencies.

8           (D) The cost of operating and maintaining  
9 improvements for which funding is provided  
10 shall be the responsibility of the non-Federal  
11 entity.

12           (E) The United States shall not be held  
13 liable by any court for monetary damages of  
14 any kind arising out of any act, omission, or oc-  
15 currence relating to non-federally owned facili-  
16 ties created or improved under this section, ex-  
17 cept for damages caused by acts of negligence  
18 committed by the United States or by its em-  
19 ployees or agents. Nothing in this section in-  
20 creases the liability of the United States beyond  
21 that provided in chapter 171 of title 28, United  
22 States Code (popularly known as the “Federal  
23 Tort Claims Act”).

1 (c) RELATIONSHIP TO PROJECT SPECIFIC AUTHOR-  
2 ITY.—This section shall not supersede any existing  
3 project-specific funding authority.

4 (d) RESEARCH AGREEMENTS.—The Secretary is also  
5 authorized to enter into cooperative agreements with uni-  
6 versities, nonprofit research institutions, or organizations  
7 with water or power delivery authority to fund research  
8 to conserve water, increase water use efficiency, or en-  
9 hance water management under such terms and conditions  
10 as the Secretary deems appropriate.

11 (e) MUTUAL BENEFIT.—Grants or cooperative agree-  
12 ments made pursuant to this section may be for the mu-  
13 tual benefit of the United States and the other party.

14 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
15 authorized to be appropriated \$100,000,000 to carry out  
16 the purposes of this section, to remain available until ex-  
17 pended.

18 (g) RECLAMATION LAW.—This section shall amend  
19 and supplement the Act of June 17, 1902 (32 Stat. 388,  
20 chapter 1093) and Acts supplementary thereto and  
21 amendatory thereof (43 U.S.C. 371 et seq.).

22 **SEC. 504. CONSULTATION WITH STATE PLANS.**

23 In evaluating proposals for wildlife conservation  
24 grants under programs administered by the Department,  
25 including grants and financial assistance authorized under

1 this title, the Secretary shall, where appropriate, consult  
2 the State Comprehensive Conservation Plans required  
3 under the State and Tribal Wildlife Grant Program and  
4 coordinate with State fish and wildlife agencies in the  
5 planning and implementation of the actions identified in  
6 those Plans.

## 7 **TITLE VI—CONFLICT** 8 **RESOLUTION**

### 9 **SEC. 601. ALTERNATIVE DISPUTE RESOLUTION OFFICE.**

10 (a) IN GENERAL.—(1) The Secretary shall establish  
11 within the Department an Office of Collaborative Action  
12 and Dispute Resolution to promote and advance the ap-  
13 propriate use of collaborative problem solving and alter-  
14 native dispute resolution processes in all bureaus and of-  
15 fices.

16 (2) The Office established under paragraph (1) shall  
17 coordinate efforts of the Department to increase the use  
18 of early consensus-building, alternative dispute resolution  
19 processes, and negotiated rulemaking consistent with ex-  
20 isting laws, regulations, and policies.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated such sums as are nec-  
23 essary to carry out the program described in this section.

1       **TITLE VII—MISCELLANEOUS**  
2                                   **PROVISIONS**

3   **SEC. 701. SAVINGS PROVISION.**

4       Nothing contained in this Act shall be construed or  
5 applied to supersede any other provision of Federal or  
6 State law.

7   **SEC. 702. SEVERABILITY PROVISION.**

8       If any provision of this Act, or the application of any  
9 provision of this Act to any person or circumstance, is held  
10 invalid by a court of competent jurisdiction, the applica-  
11 tion of such provision to other persons or circumstances,  
12 and the remainder of this Act shall not be affected there-  
13 by.

14   **SEC. 703. REGULATIONS.**

15       The Secretary is authorized to prescribe such regula-  
16 tions as are necessary to carry out this Act.

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