

# Calendar No. 442

110TH CONGRESS  
1ST SESSION

# S. 2223

[Report No. 110–205]

To amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2007

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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## A BILL

To amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Habitat and Land Conservation Act of 2007”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment  
 2 to, or repeal of, a section or other provision, the reference  
 3 shall be considered to be made to a section or other provi-  
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title, etc.
- Sec. 2. Permanent extension of special rule encouraging contributions of capital gain real property for conservation purposes.
- Sec. 3. Tax credit for recovery and restoration of endangered species.
- Sec. 4. Deduction for endangered species recovery expenditures.
- Sec. 5. Exclusion for certain payments and programs relating to fish and wildlife.
- Sec. 6. Extension of expensing of brownfields remediation costs.
- Sec. 7. Allowance of section 1031 treatment for exchanges involving certain mutual ditch, reservoir, or irrigation company stock.
- Sec. 8. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.

7 **SEC. 2. PERMANENT EXTENSION OF SPECIAL RULE EN-**  
 8 **COURAGING CONTRIBUTIONS OF CAPITAL**  
 9 **GAIN REAL PROPERTY FOR CONSERVATION**  
 10 **PURPOSES.**

11 (a) IN GENERAL.—

12 (1) INDIVIDUALS.—Subparagraph (E) of sec-  
 13 tion 170(b)(1) (relating to contributions of qualified  
 14 conservation contributions) is amended by striking  
 15 clause (vi).

16 (2) CORPORATIONS.—Subparagraph (B) of sec-  
 17 tion 170(b)(2) (relating to qualified conservation  
 18 contributions by certain corporate farmers and  
 19 ranchers) is amended by striking clause (iii).

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to contributions made in taxable  
3 years beginning after December 31, 2007.

4 **SEC. 3. TAX CREDIT FOR RECOVERY AND RESTORATION OF**  
5 **ENDANGERED SPECIES.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-  
7 chapter A of chapter 1 is amended by adding at the end  
8 the following new section:

9 **“SEC. 30D. ENDANGERED SPECIES RECOVERY AND RES-**  
10 **TORATION CREDIT.**

11 “(a) IN GENERAL.—In the case of an eligible tax-  
12 payer, there shall be allowed as a credit against the tax  
13 imposed by this chapter for the taxable year an amount  
14 equal to the sum of—

15 “(1) the habitat protection easement credit,  
16 plus

17 “(2) the habitat restoration credit.

18 “(b) LIMITATION.—

19 “(1) IN GENERAL.—The credit allowed under  
20 subsection (a) for any taxpayer for any taxable year  
21 shall not exceed the endangered species recovery  
22 credit limitation allocated to the eligible taxpayer  
23 under subsection (f) for the calendar year in which  
24 the taxpayer’s taxable year ends.

25 “(2) CARRYFORWARDS.—

1           “(A) IN GENERAL.—If the amount of the  
2           credit allowable under subsection (a) for any  
3           taxpayer for any taxable year (determined with-  
4           out regard to paragraph (1)) exceeds the en-  
5           dangered species recovery credit limitation allo-  
6           cated under subsection (f) to such taxpayer for  
7           the calendar year in which the taxpayer’s tax-  
8           able year ends, such excess may be carried for-  
9           ward to the next taxable year for which an allo-  
10          cation is made to such taxpayer under sub-  
11          section (f). Any amount carried to another tax-  
12          able year under this subparagraph shall be  
13          treated as added to the credit allowable under  
14          subsection (a)(1) or (a)(2), whichever is appro-  
15          priate, for such taxable year.

16          “(B) CARRYFORWARD OF ALLOCATION  
17          AMOUNT.—If the amount of the endangered  
18          species recovery credit limitation allocated to a  
19          taxpayer for any calendar year under subsection  
20          (f) exceeds the amount of the credit allowed to  
21          the taxpayer under subsection (a) for the tax-  
22          able year ending in such calendar year, such ex-  
23          cess may be carried forward to the next taxable  
24          year of the taxpayer. Any amount carried to an-  
25          other taxable year under this subparagraph

1 shall be treated as allocated to the taxpayer for  
2 use in such taxable year under subsection (f).

3 “(c) ELIGIBLE TAXPAYER; QUALIFIED AGREE-  
4 MENTS.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘eligible taxpayer’  
6 means—

7 “(A) a taxpayer who—

8 “(i) owns real property which contains  
9 the habitat of a qualified species, and

10 “(ii) enters into a qualified perpetual  
11 habitat protection agreement, a qualified  
12 30-year habitat protection agreement, or a  
13 qualified habitat protection agreement with  
14 respect to such real property, and

15 “(B) any other taxpayer who—

16 “(i) is a party to a qualified perpetual  
17 habitat protection agreement, a qualified  
18 30-year habitat protection agreement, or a  
19 qualified habitat protection agreement, and

20 “(ii) as part of any such agreement,  
21 agrees to assume responsibility for costs  
22 paid or incurred as a result of imple-  
23 menting such agreement.

24 “(2) QUALIFIED PERPETUAL HABITAT PROTEC-  
25 TION AGREEMENT.—The term ‘qualified perpetual

1 habitat protection agreement’ means an agree-  
2 ment—

3 “(A) under which a taxpayer described in  
4 paragraph (1)(A) grants to the appropriate Sec-  
5 retary, the Secretary of Agriculture, the Sec-  
6 retary of Defense, or a State an easement in  
7 perpetuity for the protection of the habitat of a  
8 qualified species, and

9 “(B) which meets the requirements of  
10 paragraph (5).

11 “(3) QUALIFIED 30-YEAR HABITAT PROTECTION  
12 AGREEMENT.—The term ‘qualified 30-year habitat  
13 protection agreement’ means an agreement not de-  
14 scribed in paragraph (2)—

15 “(A) under which a taxpayer described in  
16 paragraph (1)(A) grants to the appropriate Sec-  
17 retary, the Secretary of Agriculture, the Sec-  
18 retary of Defense, or a State an easement for  
19 a period of 30 years or greater for the protec-  
20 tion of the habitat of a qualified species, and

21 “(B) which meets the requirements of  
22 paragraph (5).

23 “(4) QUALIFIED HABITAT PROTECTION AGREE-  
24 MENT.—The term ‘qualified habitat protection  
25 agreement’ means an agreement—

1           “(A) under which a taxpayer described in  
2 paragraph (1)(A) enters into an agreement not  
3 described in paragraph (2) or (3) with the ap-  
4 propriate Secretary, the Secretary of Agri-  
5 culture, the Secretary of Defense, or a State to  
6 protect the habitat of a qualified species for a  
7 specified period of time, and

8           “(B) which meets the requirements of  
9 paragraph (5).

10          “(5) REQUIREMENTS.—An agreement meets  
11 the requirements of this paragraph if the agree-  
12 ment—

13           “(A) is consistent with any recovery plan  
14 which is applicable and which has been ap-  
15 proved for a qualified species under section 4 of  
16 the Endangered Species Act of 1973,

17           “(B) includes a habitat management plan  
18 agreed to by the appropriate Secretary and the  
19 eligible taxpayer, and

20           “(C) requires that technical assistance  
21 with respect to the duties under the habitat  
22 management plan be provided to the taxpayer  
23 by the appropriate Secretary or an entity ap-  
24 proved by the appropriate Secretary.

25          “(d) HABITAT PROTECTION EASEMENT CREDIT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2 (a)(1), the habitat protection easement credit for  
3 any taxable year is an amount equal to—

4           “(A) in the case of a taxpayer described in  
5 subsection (c)(1)(A) who has entered into a  
6 qualified perpetual habitat protection agreement  
7 during such taxable year, 100 percent of the ex-  
8 cess (if any) of—

9           “(i) the fair market value of the real  
10 property with respect to which the quali-  
11 fied perpetual habitat protection agreement  
12 is made, determined on the day before  
13 such agreement is entered into, over

14           “(ii) the fair market value of such  
15 property, determined on the day after such  
16 agreement is entered into,

17           “(B) in the case of a taxpayer described in  
18 subsection (c)(1)(A) who has entered into a  
19 qualified 30-year habitat protection agreement  
20 during such taxable year, 75 percent of such ex-  
21 cess, and

22           “(C) in the case of any other taxpayer,  
23 zero.

24           “(2) REDUCTION FOR AMOUNT RECEIVED FOR  
25 EASEMENT.—The amount determined under para-



1 graph (1) shall be reduced by any amount received  
2 by the taxpayer in connection with the easement.

3 “(3) LIMITATION BASED ON AMOUNT OF  
4 TAX.—The credit allowed under subsection (a)(1) for  
5 any taxable year shall not exceed the sum of—

6 “(A) the taxpayer’s regular tax liability for  
7 the taxable year reduced by the sum of the  
8 credits allowable under subpart A and sections  
9 27, 30, 30B, and 30C, and

10 “(B) the tax imposed by section 55(a) for  
11 the taxable year.

12 “(4) CARRYFORWARD OF UNUSED CREDIT.—If  
13 the credit allowable under subsection (a)(1) for any  
14 taxable year exceeds the limitation imposed by para-  
15 graph (3) for such taxable year, such excess shall be  
16 carried to the succeeding taxable year and added to  
17 the credit allowable under subsection (a)(1) for such  
18 succeeding taxable year.

19 “(5) QUALIFIED APPRAISALS REQUIRED.—No  
20 amount shall be taken into account under this sub-  
21 section unless the eligible taxpayer includes with the  
22 taxpayer’s return for the taxable year a qualified ap-  
23 praisal (within the meaning of section  
24 170(f)(11)(E)) of the real property.

25 “(e) HABITAT RESTORATION CREDIT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2 (a)(2), the habitat restoration credit for any taxable  
3 year shall be an amount equal to—

4           “(A) in the case of a qualified perpetual  
5 habitat protection agreement, 100 percent of  
6 the costs paid or incurred by an eligible tax-  
7 payer during such taxable year pursuant to the  
8 habitat management plan under such agree-  
9 ment,

10           “(B) in the case of a qualified 30-year  
11 habitat protection agreement, 75 percent of the  
12 costs paid or incurred by an eligible taxpayer  
13 during such taxable year pursuant to the habi-  
14 tat management plan under such agreement,  
15 and

16           “(C) in the case of a qualified habitat pro-  
17 tection agreement, 50 percent of the costs paid  
18 or incurred by an eligible taxpayer during such  
19 taxable year pursuant to the habitat manage-  
20 ment plan under such agreement.

21           “(2) LIMITATION BASED ON AMOUNT OF  
22 TAX.—The credit allowed under subsection (a)(2) for  
23 any taxable year shall not exceed the excess (if any)  
24 of—

1           “(A) the regular tax liability for the tax-  
2           able year reduced by the sum of the credits al-  
3           lowable under subpart A, sections 27, 30, 30B,  
4           and 30C, and subsection (a)(1), over

5           “(B) the tentative minimum tax for the  
6           taxable year.

7           “(3) CARRYFORWARD OF UNUSED CREDIT.—If  
8           the credit allowable under subsection (a)(2) for any  
9           taxable year exceeds the limitation imposed by para-  
10          graph (2) for such taxable year, such excess shall be  
11          carried to the succeeding taxable year and added to  
12          the credit allowable under subsection (a)(2) for such  
13          succeeding taxable year.

14          “(4) SPECIAL RULES.—

15                 “(A) CERTAIN COSTS NOT INCLUDED.—No  
16                 amount shall be taken into account with respect  
17                 to any cost which is paid or incurred by a tax-  
18                 payer to comply with any requirement of a Fed-  
19                 eral, State, or local government (other than  
20                 costs required under an agreement described in  
21                 subsection (c)).

22                 “(B) SUBSIDIZED FINANCING.—For pur-  
23                 poses of paragraph (1), the amount of costs  
24                 paid or incurred by an eligible taxpayer pursu-  
25                 ant to any habitat management plan described

1 in subsection (c)(5)(B) shall be reduced by the  
2 amount of any financing provided under any  
3 Federal or State program a principal purpose  
4 of which is to subsidize financing for the con-  
5 servation of the habitat of a qualified species.

6 “(f) ENDANGERED SPECIES RECOVERY CREDIT LIM-  
7 ITATION.—

8 “(1) IN GENERAL.—There is an endangered  
9 species recovery credit limitation for each calendar  
10 year. Such limitation is —

11 “(A) for 2008, 2009, 2010, 2011, and  
12 2012—

13 “(i) \$290,000,000 with respect to  
14 qualified perpetual habitat protection  
15 agreements,

16 “(ii) \$55,000,000 with respect to  
17 qualified 30-year habitat protection agree-  
18 ments, and

19 “(iii) \$35,000,000 with respect to  
20 qualified habitat protection agreements,  
21 and

22 “(B) except as provided in paragraph (3),  
23 zero thereafter.

24 “(2) ALLOCATION OF LIMITATION.—

1           “(A) IN GENERAL.—The Secretary, in con-  
2           sultation with the Secretary of the Interior and  
3           the Secretary of Commerce, shall allocate the  
4           endangered species recovery credit limitation to  
5           eligible taxpayers.

6           “(B) ESTABLISHMENT OF ALLOCATION  
7           PROGRAM.—Not later than 180 days after the  
8           date of the enactment of this Act, the Sec-  
9           retary, in consultation with the Secretary of the  
10          Interior and the Secretary of Commerce, shall,  
11          by regulation, establish a program to process  
12          applications from eligible taxpayers and to de-  
13          termine how to best allocate the credit limita-  
14          tion under subparagraph (A), taking into ac-  
15          count the considerations described in subpara-  
16          graph (C).

17          “(C) CONSIDERATIONS.—In accepting ap-  
18          plications to make allocations to eligible tax-  
19          payers under this section, priority shall be given  
20          to taxpayers with agreements—

21                 “(i) relating to habitats that will sig-  
22                 nificantly increase the likelihood of recov-  
23                 ering and delisting a species as an endan-  
24                 gered species or a threatened species (as

1 defined under section 2 of the Endangered  
2 Species Act of 1973),

3 “(ii) that are cost-effective and maxi-  
4 mize the benefits to a qualified species per  
5 dollar expended,

6 “(iii) relating to habitats of species  
7 which have a federally approved recovery  
8 plan pursuant to section 4 of the Endan-  
9 gered Species Act of 1973,

10 “(iv) relating to habitats with the po-  
11 tential to contribute significantly to the im-  
12 provement of the status of a qualified spe-  
13 cies,

14 “(v) relating to habitats with the po-  
15 tential to contribute significantly to the  
16 eradication or control of invasive species  
17 that are imperiling a qualified species,

18 “(vi) with habitat management plans  
19 that will manage multiple qualified species,

20 “(vii) with habitat management plans  
21 that will create adjacent or proximate habi-  
22 tat for the recovery of a qualified species,

23 “(viii) relating to habitats for quali-  
24 fied species with an urgent need for protec-  
25 tion,

1           “(ix) with habitat management plans  
2           that assist in preventing the listing of a  
3           species as endangered or threatened under  
4           the Endangered Species Act of 1973 or a  
5           similar State law,

6           “(x) with habitat management plans  
7           that may resolve conflicts between the pro-  
8           tection of qualified species and otherwise  
9           lawful human activities, and

10           “(xi) with habitat management plans  
11           that may resolve conflicts between the pro-  
12           tection of a qualified species and military  
13           training or other military operations.

14           “(3) CARRYOVER OF UNUSED LIMITATION.—If  
15           for any calendar year any of the limitations under  
16           paragraph (1) (after the application of this para-  
17           graph) exceeds the amount allocated to eligible tax-  
18           payers for such calendar year, such limitation  
19           amount for the following calendar year shall be in-  
20           creased by the amount of such excess.

21           “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

22           “(1) APPROPRIATE SECRETARY.—The term ‘ap-  
23           propriate Secretary’ has the meaning given to the  
24           term ‘Secretary’ under section 3(15) of the Endan-  
25           gered Species Act of 1973.

1           “(2) HABITAT MANAGEMENT PLAN.—The term  
2           ‘habitat management plan’ means, with respect to  
3           any habitat, a plan which—

4                   “(A) identifies one or more qualified spe-  
5                   cies to which the plan applies,

6                   “(B) is designed to—

7                           “(i) restore or enhance the habitat of  
8                           the qualified species, or

9                           “(ii) reduce threats to the qualified  
10                          species through the management of the  
11                          habitat,

12                   “(C) describes the current condition of the  
13                   habitat to be restored or enhanced,

14                   “(D) describes the threats to the qualified  
15                   species that are intended to be reduced through  
16                   the plan,

17                   “(E) describes the management practices  
18                   to be undertaken by the taxpayer,

19                   “(F) provides a schedule of deadlines for  
20                   undertaking such management practices and  
21                   the expected responses of the habitat and the  
22                   species,

23                   “(G) requires monitoring of the manage-  
24                   ment practices and the status of the qualified  
25                   species and its habitat, and



1           “(H) describes the technical assistance to  
2           be provided to the taxpayer and identifies the  
3           entity that will provide such assistance.

4           “(3) QUALIFIED SPECIES.—The term ‘qualified  
5           species’ means—

6                   “(A) any species listed as an endangered  
7                   species or threatened species under the Endan-  
8                   gered Species Act of 1973, or

9                   “(B) any species for which a finding has  
10                  been made under section 4(b)(3) of the Endan-  
11                  gered Species Act of 1973 that listing under  
12                  such Act may be warranted.

13           “(4) TAKING.—The term ‘taking’ has the  
14           meaning given to such term under the Endangered  
15           Species Act of 1973.

16           “(5) REDUCTION IN BASIS.—For purposes of  
17           this subtitle, the basis of any property for which a  
18           credit is allowed under subsection (a)(1) shall be re-  
19           duced by the amount of the credit so allowed.

20           “(6) DENIAL OF DOUBLE BENEFIT.—No deduc-  
21           tion or other credit shall be allowed under this chap-  
22           ter for any amount with respect to which a credit is  
23           allowed under subsection (a).

24           “(7) CERTIFICATION.—No credit shall be al-  
25           lowed under subsection (a) unless the appropriate

1 Secretary certifies that any agreement described in  
2 subsection (c) will contribute to the recovery of a  
3 qualified species.

4 “(8) REQUEST FOR AUTHORIZATION OF INCI-  
5 DENTAL TAKINGS.—The Secretary shall request the  
6 appropriate Secretary to consider whether to author-  
7 ize under the Endangered Species Act of 1973  
8 takings by an eligible taxpayer of a qualified species  
9 to which an agreement described in subsection (c)  
10 relates if the takings are incidental to—

11 “(A) the restoration, enhancement, or  
12 management of the habitat pursuant to the  
13 habitat management plan under the agreement,  
14 or

15 “(B) the use of the property to which the  
16 agreement pertains at any time after the expi-  
17 ration of the easement or the specified period  
18 described in subsection (c)(4)(A), but only if  
19 such use will leave the qualified species at least  
20 as well off on the property as it was before the  
21 agreement was made.

22 “(9) RECAPTURE.—The Secretary shall, by reg-  
23 ulations, provide for recapturing the benefit under  
24 any credit allowable under subsection (a) if the Sec-  
25 retary determines that—

1           “(A) the taxpayer has failed to carry out  
2           the duties of the taxpayer under the terms of  
3           a qualified perpetual habitat protection agree-  
4           ment, a qualified 30-year habitat protection  
5           agreement, or a qualified habitat protection  
6           agreement, and

7           “(B) there are no other available means to  
8           remediate such failure.”.

9           (b) GAO STUDY.—

10           (1) IN GENERAL.—The Comptroller General of  
11           the United States shall undertake a study on the ef-  
12           fectiveness of the credit allowed under section 30D  
13           of the Internal Revenue Code of 1986 (as added by  
14           this Act).

15           (2) ISSUES TO BE STUDIED.—The study under  
16           paragraph (1) shall—

17           (A) evaluate—

18           (i) the contributions that habitat man-  
19           agement plans established under such  
20           credit have made in restoring or enhancing  
21           species habitat and reducing threats to  
22           species, and

23           (ii) the implementation of the credit  
24           allocation program established in section  
25           30D(f)(2) of such Code (as so added), and

1 (B) include recommendations for improv-  
2 ing the effectiveness of such credit.

3 (3) REPORTS.—

4 (A) INTERIM REPORT.—Not later than 3  
5 years after the date of the enactment of this  
6 Act, the Comptroller General of the United  
7 States shall submit to Congress an interim re-  
8 port on the study conducted under paragraph  
9 (1).

10 (B) FINAL REPORT.—Not later than 5  
11 years after the date of the enactment of this  
12 Act, the Comptroller General of the United  
13 States shall submit to Congress a final report  
14 on the study conducted under paragraph (1).

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 1016(a) is amended by striking  
17 “and” at the end of paragraph (36), by striking the  
18 period at the end of paragraph (37) and inserting “,  
19 and”, and by inserting after paragraph (37) the fol-  
20 lowing new paragraph:

21 “(38) to the extent provided in section  
22 30D(g)(5).”.

23 (2) The table of sections for subpart B of part  
24 IV of subchapter A of chapter 1 is amended by in-

1       serting after the item relating to section 30C the fol-  
 2       lowing new item:

“Sec. 30D. Endangered species recovery and restoration credit.”.

3       (d) **EFFECTIVE DATE.**—The amendments made by  
 4 this section shall apply to taxable years beginning after  
 5 December 31, 2007.

6 **SEC. 4. DEDUCTION FOR ENDANGERED SPECIES RECOV-**  
 7 **ERY EXPENDITURES.**

8       (a) **DEDUCTION FOR ENDANGERED SPECIES RECOV-**  
 9 **ERY EXPENDITURES.**—

10           (1) **IN GENERAL.**—Paragraph (1) of section  
 11 175(c) (relating to definitions) is amended by insert-  
 12 ing after the first sentence the following new sen-  
 13 tence: “Such term shall include expenditures paid or  
 14 incurred for the purpose of achieving site-specific  
 15 management actions recommended in recovery plans  
 16 approved pursuant to the Endangered Species Act of  
 17 1973.”.

18           (2) **CONFORMING AMENDMENTS.**—

19           (A) Section 175 is amended by inserting “,  
 20 or for endangered species recovery” after “pre-  
 21 vention of erosion of land used in farming”  
 22 each place it appears in subsections (a) and (c).

23           (B) The heading of section 175 is amended  
 24 by inserting “**;** **ENDANGERED SPECIES RE-**  
 25 **COVERY EXPENDITURES**” before the period.

1           (C) The item relating to section 175 in the  
2           table of sections for part VI of subchapter B of  
3           chapter 1 is amended by inserting “; endan-  
4           gered species recovery expenditures” before the  
5           period.

6           (b) LIMITATIONS.—Paragraph (3) of section 175(c)  
7 (relating to additional limitations) is amended—

8           (1) in the heading, by inserting “OR ENDAN-  
9           GERED SPECIES RECOVERY PLAN” after “CONSERVA-  
10          TION PLAN”, and

11          (2) in subparagraph (A)(i), by inserting “or the  
12          recovery plan approved pursuant to the Endangered  
13          Species Act of 1973” after “Department of Agri-  
14          culture”.

15          (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to expenditures paid or incurred  
17 after the date of the enactment of this Act.

18 **SEC. 5. EXCLUSION FOR CERTAIN PAYMENTS AND PRO-**  
19 **GRAMS RELATING TO FISH AND WILDLIFE.**

20          (a) IN GENERAL.—Subsection (a) of section 126 (re-  
21 lating to certain cost-sharing payments) is amended by re-  
22 designating paragraph (10) as paragraph (12) and by in-  
23 serting after paragraph (9) the following new paragraphs:

1           “(10) The Partners for Fish and Wildlife Pro-  
2           gram authorized by the Partners for Fish and Wild-  
3           life Act.

4           “(11) The Landowner Incentive Program, the  
5           State Wildlife Grants Program, and the Private  
6           Stewardship Grants Program authorized by the Fish  
7           and Wildlife Act of 1956.”.

8           (b) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to payments received after the date  
10          of the enactment of this Act.

11 **SEC. 6. EXTENSION OF EXPENSING OF BROWNFIELDS RE-**  
12 **MEDIATION COSTS.**

13          (a) EXTENSION.—Subsection (h) of section 198 is  
14          amended by striking “2007” and inserting “2010”.

15          (b) EFFECTIVE DATE.—The amendment made by  
16          this section shall apply to expenditures paid or incurred  
17          after December 31, 2007.

18 **SEC. 7. ALLOWANCE OF SECTION 1031 TREATMENT FOR EX-**  
19 **CHANGES INVOLVING CERTAIN MUTUAL**  
20 **DITCH, RESERVOIR, OR IRRIGATION COM-**  
21 **PANY STOCK.**

22          (a) IN GENERAL.—Section 1031 (relating to ex-  
23          change of property held for productive use or investment)  
24          is amended by adding at the end the following new sub-  
25          section:

1       “(i) SPECIAL RULES FOR MUTUAL DITCH, RES-  
 2 ERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes  
 3 of subsection (a)(2)(B), the term ‘stocks’ shall not include  
 4 shares in a mutual ditch, reservoir, or irrigation company  
 5 if at the time of the exchange—

6           “(1) the mutual ditch, reservoir, or irrigation  
 7 company is an organization described in section  
 8 501(c)(12)(A) (determined without regard to the  
 9 percentage of its income that is collected from its  
 10 members for the purpose of meeting losses and ex-  
 11 penses), and

12           “(2) the shares in such company have been rec-  
 13 ognized by the highest court of the State in which  
 14 such company was organized or by applicable State  
 15 statute as constituting or representing real property  
 16 or an interest in real property.”.

17       (b) EFFECTIVE DATE.—The amendment made by  
 18 this section shall apply to transfers after the date of the  
 19 enactment of this Act.

20 **SEC. 8. MODIFICATION OF EFFECTIVE DATE OF LEASING**  
 21 **PROVISIONS OF THE AMERICAN JOBS CRE-**  
 22 **ATION ACT OF 2004.**

23       (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)  
 24 of the American Jobs Creation Act of 2004 is amended  
 25 by adding at the end the following new paragraph:



1           “(5) LEASES TO FOREIGN ENTITIES.—In the  
2 case of tax-exempt use property leased to a tax-ex-  
3 empt entity which is a foreign person or entity, the  
4 amendments made by this part shall apply to taxable  
5 years beginning after December 31, 2006, with re-  
6 spect to leases entered into on or before March 12,  
7 2004.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall take effect as if included in the enact-  
10 ment of the American Jobs Creation Act of 2004.

Calendar No. 442

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 2223**

[Report No. 110-205]

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## **A BILL**

To amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration, and for other purposes.

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OCTOBER 24, 2007

Read twice and placed on the calendar.