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In many regions, an emerging industry has private and public businesses buying and selling credits, with the ultimate goal being a vibrant ecosystem and a nice profit. Known as mitigation banking, the concept is spreading in several states, and a bill to expand it nationwide is gaining momentum in Congress. This is how it works: A "banker" - who may be a government agency, nonprofit entity or entrepreneur - will create, restore or enhance a wetland and sell "credits" to public and private developers as mitigation for filling wetlands somewhere else. He is paying taxes on land he cannot farm. Buying these credits would allow the farmer to use the wetlands on his property. Meanwhile, the banker uses part of the money from the farmer and others who have bought credits to restore and maintain the new, larger wetland. Jones said bankers have been successful in restoring land that is sometimes in terrible condition. George Howard, a North Carolina mitigation banker, worked on a project near Fayetteville in which , trees, including 27 varieties of hardwoods, were planted in an open area. Waterfowl and many amphibians have returned to the site, he added. Proponents say larger projects result in more scientific research and expertise on better preserving wetlands, which they say is the ultimate goal of mitigation. Although wetlands occupy less than 5 percent of the contiguous United States, they are valuable as wildlife and fisheries habitat and contributors to lakes, rivers, streams, and ground water. Environmental groups refer to them as natural and national treasures. According to a report by the U. Interior Department last fall, nearly 1. Much of these losses can be attributed to commercial operations, timber harvesting and agriculture. Through American history, wetlands have been converted to farmland, highways, sewage lagoons, landfills, industrial complexes, shopping malls, parking lots, housing developments and airports. Under the Clean Water Act, most developments in wetlands require a permit from the U. The wetlands provisions are considered a major impediment to many public and private development projects. The federal bill would amend the Clean Water Act to create a mitigation banking system governed by federal standards. Some environmental groups oppose the legislation. Environmentalist opponents say mitigation banking can be used a tool to "move" wetlands from prime development areas. They also point out that some mitigation banking efforts have failed. In many cases, they say, a wetland created or restored by a banker is unlikely to replace all of the services provided by the destroyed one, such as flood protection and fish habitat. Environmentalists also fear that in regions with no large property available, the banks would purchase land far away. This would make it highly unlikely that lost functions would be replaced. Finally, they say that federal, state and local agencies charged with protection of wetlands will be tempted to take the easy way out by authorizing payments to mitigation banks in lieu of emphasizing avoidance of wetland destruction. But some environmentalists are reluctantly accepting the concept. Although they would rather not see natural habitats disturbed, they say that carefully regulated mitigation banking could be a possible solution in the face of growing pressure to develop. Howard, who has worked in mitigation banking for two years, said that environmentalists have the right to be cautious but will likely change their minds as more projects come to fruition.

## 2: President Trump | Wetlands | Clean Water Act

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5: Massachusetts conservation commission permit | Massachusetts Real Estate Law Blog

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