

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2522

To establish the Southwest Regional Border Authority.

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## IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, MAY 9), 2002

Mr. BINGAMAN (for himself and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish the Southwest Regional Border Authority.

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; TABLE OF CONTENTS.**

4        (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Southwest Regional Border Authority Act”.

6        (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

### TITLE I—SOUTHWEST REGIONAL BORDER AUTHORITY

- Sec. 101. Membership and voting.
- Sec. 102. Duties and powers.
- Sec. 103. Authority personnel matters.

## TITLE II—GRANTS AND DEVELOPMENT PLANNING

- Sec. 201. Infrastructure development and improvement.
- Sec. 202. Technology development.
- Sec. 203. Community development and entrepreneurship.
- Sec. 204. Education and workforce development.
- Sec. 205. Funding.
- Sec. 206. Supplements to Federal grant programs.
- Sec. 207. Demonstration projects.
- Sec. 208. Local development districts; certification and administrative expenses.
- Sec. 209. Distressed counties and areas and economically strong counties.
- Sec. 210. Development planning process.

## TITLE III—ADMINISTRATION

- Sec. 301. Program development criteria.
- Sec. 302. Approval of development plans and projects.
- Sec. 303. Consent of States.
- Sec. 304. Records.
- Sec. 305. Annual report.
- Sec. 306. Authorization of appropriations.
- Sec. 307. Termination of authority.

**1 SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) a rapid increase in population in the South-  
 4 west border region is placing a significant strain on  
 5 the infrastructure of the region, including transpor-  
 6 tation, water and wastewater, public health, and  
 7 telecommunications;

8 (2) 20 percent of the residents of the region  
 9 have incomes below the poverty level;

10 (3) unemployment rates in counties in the re-  
 11 gion are up to 5 times the national unemployment  
 12 rate;

13 (4) per capita personal income in the region is  
 14 significantly below the national average and much of  
 15 the income in the region is distributed through wel-

1 fare programs, retirement programs, and unemploy-  
2 ment payments;

3 (5) a lack of adequate access to capital in the  
4 region—

5 (A) has created economic disparities in the  
6 region; and

7 (B) has made it difficult for businesses to  
8 start up in the region;

9 (6) many residents of the region live in commu-  
10 nities referred to as “colonias” that lack basic neces-  
11 sities, including running water, sewers, storm drain-  
12 age, and electricity;

13 (7) many of the problems that exist in the re-  
14 gion could be solved or ameliorated by technology  
15 that would contribute to economic development in  
16 the region;

17 (8) while numerous Federal, State, and local  
18 programs target financial resources to the region,  
19 those programs are often uncoordinated, duplicative,  
20 and, in some cases, unavailable to eligible border  
21 communities because those communities cannot af-  
22 ford the required funding match;

23 (9) Congress has established several regional  
24 economic development commissions, including the  
25 Appalachian Regional Commission, the Delta Re-

1 regional Authority, and the Denali Commission, to im-  
2 prove the economies of those areas of the United  
3 States that experience the greatest economic dis-  
4 tress; and

5 (10) many of the counties in the region are  
6 among the most economically distressed in the  
7 United States and would benefit from a regional eco-  
8 nomic development commission.

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

10 (1) to establish a regional economic develop-  
11 ment authority for the Southwest Border region to  
12 address critical issues relating to the economic  
13 health and well-being of the residents of the region;

14 (2) to provide funding to communities in the re-  
15 gion to stimulate and foster infrastructure develop-  
16 ment, technology development, community develop-  
17 ment and entrepreneurship, and education and  
18 workforce development in the region;

19 (3) to increase the total amount of Federal  
20 funding available for border economic development  
21 projects by coordinating with and reducing duplica-  
22 tion of other Federal, State, and local programs; and

23 (4) to empower the people of the region through  
24 the use of local development districts and State and

1 regional development plans that reflect State and  
2 local priorities.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) **ATTAINMENT COUNTY.**—The term “attain-  
6 ment county” means an economically strong county  
7 that is not a distressed county or a competitive  
8 county.

9 (2) **AUTHORITY.**—The term “Authority” means  
10 the Southwest Regional Border Authority estab-  
11 lished by section 101(a)(1).

12 (3) **BINATIONAL REGION.**—The term “bina-  
13 tional region” means the 150 miles on either side of  
14 the United States-Mexico border.

15 (4) **BUSINESS INCUBATOR SERVICE.**—The term  
16 “business incubator service” means—

17 (A) a legal service, including aid in pre-  
18 paring a corporate charter, partnership agree-  
19 ment, or contract;

20 (B) a service in support of the protection  
21 of intellectual property through a patent, a  
22 trademark, or any other means;

23 (C) a service in support of the acquisition  
24 or use of advanced technology, including the

1 use of Internet services and Web-based services;  
2 and

3 (D) consultation on strategic planning,  
4 marketing, or advertising.

5 (5) COMPETITIVE COUNTY.—The term “com-  
6 petitive county” means an economically strong coun-  
7 ty that meets at least 1, but not all, of the criteria  
8 for a distressed county specified in paragraph (5).

9 (6) DISTRESSED COUNTY.—The term “dis-  
10 tressed county” means a county in the region that—

11 (A)(i) has a poverty rate that is at least  
12 150 percent of the poverty rate of the United  
13 States;

14 (ii) has a per capita market income that is  
15 not more than 67 percent of the per capita  
16 market income of the United States; and

17 (iii) has a 3-year unemployment rate that  
18 is at least 150 percent of the unemployment  
19 rate of the United States; or

20 (B)(i) has a poverty rate that is at least  
21 200 percent of the poverty rate of the United  
22 States; and

23 (ii)(I) has a per capita market income that  
24 is not more than 67 percent of the per capita  
25 market income of the United States; or

1           (II) has a 3-year unemployment rate that  
2           is at least 150 percent of the unemployment  
3           rate of the United States.

4           (7) ECONOMICALLY STRONG COUNTY.—The  
5           term “economically strong county” means a county  
6           in the region that is not a distressed county.

7           (8) FEDERAL GRANT PROGRAM.—The term  
8           “Federal grant program” means a Federal grant  
9           program to provide assistance in—

10                   (A) acquiring or developing land;

11                   (B) constructing or equipping a highway,  
12                   road, bridge, or facility; or

13                   (C) carrying out other economic develop-  
14                   ment activities.

15           (9) ISOLATED AREA OF DISTRESS.—The term  
16           “isolated area of distress” means an area located in  
17           an economically strong county that has a high rate  
18           of poverty, unemployment, or outmigration, as deter-  
19           mined by the Authority.

20           (10) LOCAL DEVELOPMENT DISTRICT.—The  
21           term “local development district” means an entity  
22           that—

23                   (A)(i) is a planning district in existence on  
24                   the date of enactment of this Act that is recog-

1 nized by the Economic Development Adminis-  
2 tration of the Department of Commerce; or

3 (ii) in the case of an area for which an en-  
4 tity described in clause (i) does not exist, is—

5 (I) organized and operated in a man-  
6 ner that ensures broad-based community  
7 participation and an effective opportunity  
8 for other nonprofit groups to contribute to  
9 the development and implementation of  
10 programs in the region;

11 (II) governed by a policy board with  
12 at least a simple majority of members con-  
13 sisting of elected officials or employees of  
14 a general purpose unit of local government  
15 who have been appointed to represent the  
16 government;

17 (III) certified to the Authority as hav-  
18 ing a charter or authority that includes the  
19 economic development of counties or parts  
20 of counties or other political subdivisions  
21 within the region—

22 (aa) by the Governor of each  
23 State in which the entity is located; or



1 (bb) by the State officer des-  
2 ignated by the appropriate State law  
3 to make the certification; and

4 (IV)(aa) a nonprofit incorporated  
5 body organized or chartered under the law  
6 of the State in which the entity is located;

7 (bb) a nonprofit agency or instrumen-  
8 tality of a State or local government;

9 (cc) a public organization established  
10 before the date of enactment of this Act  
11 under State law for creation of multijuris-  
12 dictional, area-wide planning organizations;

13 (dd) a nonprofit association or com-  
14 bination of bodies, agencies, and instru-  
15 mentalities described in subclauses (I)  
16 through (III); or

17 (ee) a nonprofit, binational organiza-  
18 tion; and

19 (B) has not, as certified by the Federal  
20 cochairperson—

21 (i) inappropriately used Federal grant  
22 funds from any Federal source; or

23 (ii) appointed an officer who, during  
24 the period in which another entity inappro-  
25 priately used Federal grant funds from any

1 Federal source, was an officer of the other  
2 entity.

3 (11) REGION.—The term “region” means—

4 (A) the counties of Cochise, Gila, Graham,  
5 Greenlee, La Paz, Maricopa, Pima, Pinal,  
6 Santa Cruz, and Yuma in the State of Arizona;

7 (B) the counties of Imperial, Los Angeles,  
8 Orange, Riverside, San Bernardino, San Diego,  
9 and Ventura in the State of California;

10 (C) the counties of Catron, Chaves, Doña  
11 Ana, Eddy, Grant, Hidalgo, Lincoln, Luna,  
12 Otero, Sierra, and Socorro in the State of New  
13 Mexico; and

14 (D) the counties of Atascosa, Bandera,  
15 Bee, Bexar, Brewster, Brooks, Cameron, Coke,  
16 Concho, Crane, Crockett, Culberson, Dimmit,  
17 Duval, Ector, Edwards, El Paso, Frio, Gil-  
18 lespie, Glasscock, Hidalgo, Hudspeth, Irion,  
19 Jeff Davis, Jim Hogg, Jim Wells, Karnes, Ken-  
20 dall, Kenedy, Kerr, Kimble, Kinney, Kleberg,  
21 La Salle, Live Oak, Loving, Mason, Maverick,  
22 McMullen, Medina, Menard, Midland, Nueces,  
23 Pecos, Presidio, Reagan, Real, Reeves, San  
24 Patricio, Shleicher, Sutton, Starr, Sterling,  
25 Terrell, Tom Green, Upton, Uvalde, Val Verde,

1 Ward, Webb, Willacy, Wilson, Winkler, Zapata,  
2 and Zavala in the State of Texas.

3 (12) SMALL BUSINESS.—The term “small busi-  
4 ness” has the meaning given the term “small busi-  
5 ness concern” in section 3(a) of the Small Business  
6 Act (15 U.S.C. 632(a)).

## 7 **TITLE I—SOUTHWEST REGIONAL** 8 **BORDER AUTHORITY**

### 9 **SEC. 101. MEMBERSHIP AND VOTING.**

10 (a) ESTABLISHMENT.—

11 (1) IN GENERAL.—There is established the  
12 Southwest Regional Border Authority.

13 (2) COMPOSITION.—The Authority shall be  
14 composed of—

15 (A) a Federal member, to be appointed by  
16 the President, by and with the advice and con-  
17 sent of the Senate; and

18 (B) State members who shall consist of the  
19 Governor (or a designee of the Governor) of  
20 each State in the region that elects to partici-  
21 pate in the Authority.

22 (3) COCHAIRPERSONS.—The Authority shall be  
23 headed by—

24 (A) the Federal member, who shall serve—

25 (i) as the Federal cochairperson; and

1 (ii) as a liaison between the Federal  
2 Government and the Authority; and

3 (B) a State cochairperson, who shall—

4 (i) be a Governor of a State described  
5 in paragraph (2)(B);

6 (ii) be elected by the State members  
7 for a term of not more than 2 years; and

8 (iii) serve only 1 term during any 4  
9 year period.

10 (b) ALTERNATE MEMBERS.—

11 (1) STATE ALTERNATES.—The State member  
12 of a State described in paragraph (2)(B) may have  
13 a single alternate, who shall be—

14 (A) a resident of that State; and

15 (B) appointed by the Governor of the  
16 State, from among the members of the cabinet  
17 or personal staff of the Governor.

18 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

19 The President shall appoint an alternate Federal co-  
20 chairperson.

21 (3) QUORUM.—Subject to subsection (d)(4), a  
22 State alternate member shall not be counted toward  
23 the establishment of a quorum of the members of  
24 the Authority in any case in which a quorum of the  
25 State members is required to be present.

1           (4) DELEGATION OF POWER.—No power or re-  
2           responsibility of the Authority specified in paragraph  
3           (2) or (3) of subsection (d), and no voting right of  
4           any member of the Authority, shall be delegated to  
5           any person who is not—

6                     (A) a member of the Authority; or

7                     (B) entitled to vote at meetings of the Au-  
8           thority.

9           (c) MEETINGS.—

10           (1) INITIAL MEETING.—The initial meeting of  
11           the Authority shall be conducted not later than the  
12           date that is the earlier of—

13                     (A) 180 days after the date of enactment  
14           of this Act; or

15                     (B) 60 days after the date on which the  
16           Federal cochairperson is appointed.

17           (2) OTHER MEETINGS.—The Authority shall  
18           hold meetings at such times as the Authority deter-  
19           mines, but not less often than semiannually.

20           (3) LOCATION.—Meetings of the Authority shall  
21           be conducted, on a rotating basis, at a site in the  
22           region in each of the States of Arizona, California,  
23           New Mexico, and Texas.

24           (d) VOTING.—

1           (1) IN GENERAL.—To be effective, a decision by  
2 the Authority shall require the approval of the Fed-  
3 eral cochairperson and not less than 60 percent of  
4 the State members of the Authority (not including  
5 any member representing a State that is delinquent  
6 under section 102(d)(2)(D)).

7           (2) QUORUM.—

8           (A) IN GENERAL.—A majority of the State  
9 members shall constitute a quorum.

10           (B) REQUIRED FOR POLICY DECISION.—A  
11 quorum of State members shall be required to  
12 be present for the Authority to make any policy  
13 decision, including—

14                   (i) a modification or revision of a pol-  
15 icy decision of the Authority;

16                   (ii) approval of a State or regional de-  
17 velopment plan; and

18                   (iii) any allocation of funds among the  
19 States.

20           (3) PROJECT AND GRANT PROPOSALS.—The ap-  
21 proval of project and grant proposals shall be—

22                   (A) a responsibility of the Authority; and

23                   (B) conducted in accordance with section  
24 302.

1           (4) VOTING BY ALTERNATE MEMBERS.—An al-  
2           ternate member shall vote in the case of the absence,  
3           death, disability, removal, or resignation of the Fed-  
4           eral or State member for which the alternate mem-  
5           ber is an alternate.

6 **SEC. 102. DUTIES AND POWERS.**

7           (a) DUTIES.—The Authority shall—

8           (1) develop comprehensive and coordinated  
9           plans and programs to establish priorities and ap-  
10          prove grants for the economic development of the re-  
11          gion, giving due consideration to other Federal,  
12          State, and local planning and development activities  
13          in the region;

14          (2) conduct and sponsor investigations, re-  
15          search, and studies, including an inventory and anal-  
16          ysis of the resources of the region, using, in part,  
17          the materials compiled by the Interagency Task  
18          Force on the Economic Development of the South-  
19          west Border established by Executive Order No.  
20          13122 (64 Fed. Reg. 29201);

21          (3) sponsor demonstration projects under sec-  
22          tion 207;

23          (4) review and study Federal, State, and local  
24          public and private programs and, as appropriate,

1 recommend modifications or additions to increase  
2 the effectiveness of the programs;

3 (5) formulate and recommend, as appropriate,  
4 interstate and international compacts and other  
5 forms of interstate and international cooperation;

6 (6) encourage private investment in industrial,  
7 commercial, and recreational projects in the region;

8 (7) provide a forum for consideration of the  
9 problems of the region and any proposed solutions to  
10 those problems;

11 (8) establish and use, as appropriate, citizens,  
12 special advisory counsels, and public conferences;  
13 and

14 (9) provide a coordinating mechanism to avoid  
15 duplication of efforts among the border programs of  
16 the Federal agencies and the programs established  
17 under the North American Free Trade Agreement  
18 entered into by the United States, Mexico, and Can-  
19 ada on December 17, 1992.

20 (b) POWERS.—In carrying out subsection (a), the Au-  
21 thority may—

22 (1) hold such hearings, sit and act at such  
23 times and places, take such testimony, receive such  
24 evidence, and print or otherwise reproduce and dis-  
25 tribute a description of the proceedings of, and re-



1 ports on actions by, the Authority as the Authority  
2 considers appropriate;

3 (2) request from any Federal, State, or local  
4 agency such information as may be available to or  
5 procurable by the agency that may be of use to the  
6 Authority in carrying out the duties of the Author-  
7 ity;

8 (3) maintain an accurate and complete record  
9 of all transactions and activities of the Authority, to  
10 be available for audit and examination by the Comp-  
11 troller General of the United States;

12 (4) adopt, amend, and repeal bylaws and rules  
13 governing the conduct of business and the perform-  
14 ance of duties of the Authority;

15 (5) request the head of any Federal agency to  
16 detail to the Authority, for a specified period of  
17 time, such personnel as the Authority requires to  
18 carry out duties of the Authority, each such detail  
19 to be without loss of seniority, pay, or other em-  
20 ployee status;

21 (6) request the head of any State department  
22 or agency or local government to detail to the Au-  
23 thority, for a specified period of time, such personnel  
24 as the Authority requires to carry out the duties of

1 the Authority, each such detail to be without loss  
2 of seniority, pay, or other employee status;

3 (7) make recommendations to the President  
4 regarding—

5 (A) the expenditure of funds at the Fed-  
6 eral, State, and local levels under this Act; and

7 (B) additional Federal, State, and local  
8 legislation that may be necessary to further the  
9 purposes of this Act;

10 (8) provide for coverage of Authority employees  
11 in a suitable retirement and employee benefit system  
12 by—

13 (A) making arrangements or entering into  
14 contracts with any participating State govern-  
15 ment; or

16 (B) otherwise providing retirement and  
17 other employee benefit coverage;

18 (9) accept, use, and dispose of gifts or dona-  
19 tions of services or real, personal, tangible, or intan-  
20 gible property;

21 (10) enter into and perform such contracts,  
22 leases, cooperative agreements, or other transactions  
23 as are necessary to carry out the duties of the Au-  
24 thority; and

25 (11) establish and maintain—

1 (A) a central office, to be located at a site  
2 that is not more than 100 miles from the  
3 United States-Mexico border; and

4 (B) at least 1 field office in each of the  
5 States of Arizona, California, New Mexico, and  
6 Texas, to be located at sites in the region that  
7 the Authority determines to be appropriate.

8 (c) FEDERAL AGENCY COOPERATION.—A Federal  
9 agency shall—

10 (1) cooperate with the Authority; and

11 (2) provide, on request of the Federal cochair-  
12 person, appropriate assistance in carrying out this  
13 Act, in accordance with applicable Federal laws (in-  
14 cluding regulations).

15 (d) ADMINISTRATIVE EXPENSES.—

16 (1) IN GENERAL.—

17 (A) ADMINISTRATIVE EXPENSES.—Subject  
18 to paragraph (2), administrative expenses of the  
19 Authority shall be paid—

20 (i) by the Federal Government, in an  
21 amount equal to 60 percent of the admin-  
22 istrative expenses; and

23 (ii) by the States in the region that  
24 elect to participate in the Authority, in an

1 amount equal to 40 percent of the admin-  
2 istrative expenses.

3 (B) EXPENSES OF FEDERAL CHAIR-  
4 PERSON.—All expenses of the Federal cochair-  
5 person, including expenses of the alternate and  
6 staff of the Federal cochairperson, shall be paid  
7 by the Federal Government.

8 (2) STATE SHARE.—

9 (A) IN GENERAL.—Subject to subpara-  
10 graph (C), the share of administrative expenses  
11 of the Authority to be paid by each State shall  
12 be determined by a unanimous vote of the State  
13 members of the Authority.

14 (B) NO FEDERAL PARTICIPATION.—The  
15 Federal cochairperson shall not participate or  
16 vote in any decision under subparagraph (A).

17 (C) LIMITATION.—A State shall not pay  
18 less than 10 nor more than 40 percent of the  
19 share of administrative expenses of the Author-  
20 ity determined under paragraph (1)(A)(ii).

21 (D) DELINQUENT STATES.—During any  
22 period in which a State is more than 1 year de-  
23 linquent in payment of the State's share of ad-  
24 ministrative expenses of the Authority under

1           this subsection (as determined by the Sec-  
2           retary)—

3                   (i) no assistance under this Act shall  
4                   be provided to the State (including assist-  
5                   ance to a political subdivision or a resident  
6                   of the State) for any project not approved  
7                   as of the date of the commencement of the  
8                   delinquency; and

9                   (ii) no member of the Authority from  
10                  the State shall participate or vote in any  
11                  action by the Authority.

12                  (E) EFFECT ON ASSISTANCE.—A State's  
13                  share of administrative expenses of the Author-  
14                  ity under this subsection shall not be taken into  
15                  consideration in determining the amount of as-  
16                  sistance provided to the State under title II.

17 **SEC. 103. AUTHORITY PERSONNEL MATTERS.**

18           (a) COMPENSATION OF MEMBERS.—

19                   (1) FEDERAL COCHAIRPERSON.—The Federal  
20                   cochairperson shall be compensated by the Federal  
21                   Government at the annual rate of basic pay pre-  
22                   scribed for level III of the Executive Schedule in  
23                   subchapter II of chapter 53 of title 5, United States  
24                   Code.

1 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

2 The alternate Federal cochairperson—

3 (A) shall be compensated by the Federal  
4 Government at the annual rate of basic pay  
5 prescribed for level V of the Executive Schedule  
6 described in paragraph (1); and

7 (B) when not actively serving as an alter-  
8 nate for the Federal cochairperson, shall per-  
9 form such functions and duties as are delegated  
10 by the Federal cochairperson.

11 (3) STATE MEMBERS AND ALTERNATES.—

12 (A) IN GENERAL.—A State shall com-  
13 pensate each member and alternate member  
14 representing the State on the Authority at the  
15 rate established by State law.

16 (B) NO ADDITIONAL COMPENSATION.—No  
17 State member or alternate member shall receive  
18 any salary, or any contribution to or sup-  
19 plementation of salary, from any source other  
20 than the State for services provided by the  
21 member or alternate member to the Authority.

22 (b) DETAILED EMPLOYEES.—

23 (1) IN GENERAL.—No person detailed to serve  
24 the Authority under section 102(b)(6) shall receive  
25 any salary, or any contribution to or supplemen-

1 tation of salary, for services provided to the Author-  
2 ity from—

3 (A) any source other than the State, local,  
4 or intergovernmental department or agency  
5 from which the person was detailed; or

6 (B) the Authority.

7 (2) VIOLATION.—Any person that violates this  
8 subsection shall be fined not more than \$5,000, im-  
9 prisoned not more than 1 year, or both.

10 (c) ADDITIONAL PERSONNEL.—

11 (1) COMPENSATION.—

12 (A) IN GENERAL.—The Authority may ap-  
13 point and fix the compensation of an executive  
14 director and such other personnel as are nec-  
15 essary to enable the Authority to carry out the  
16 duties of the Authority.

17 (B) EXCEPTION.—Compensation under  
18 subparagraph (A) shall not exceed the max-  
19 imum rate of basic pay established for the Sen-  
20 ior Executive Service under section 5382 of title  
21 5, United States Code, including any applicable  
22 locality-based comparability payment that may  
23 be authorized under section 5304(h)(2)(C) of  
24 that title.

1           (2) EXECUTIVE DIRECTOR.—The executive  
2 director—

3           (A) shall be a Federal employee; and

4           (B) shall be responsible for—

5                 (i) carrying out the administrative du-  
6 ties of the Authority;

7                 (ii) directing the Authority staff; and

8                 (iii) such other duties as the Author-  
9 ity may assign.

10         (d) CONFLICTS OF INTEREST.—

11           (1) IN GENERAL.—Except as provided under  
12 paragraph (2), no State member, State alternate, of-  
13 ficer, employee, or detailee of the Authority shall  
14 participate personally and substantially as a mem-  
15 ber, alternate, officer, employee, or detailee of the  
16 Authority, through decision, approval, disapproval,  
17 recommendation, the rendering of advice, investiga-  
18 tion, or otherwise, in any proceeding, application, re-  
19 quest for a ruling or other determination, contract,  
20 claim, controversy, or other matter in which the  
21 member, alternate, officer, employee, or detailee has  
22 a financial interest.

23           (2) DISCLOSURE.—Paragraph (1) shall not  
24 apply if the State member, State alternate, officer,  
25 employee, or detailee—



1 (A) immediately advises the Authority of  
2 the nature and circumstances of the proceeding,  
3 application, request for a ruling or other deter-  
4 mination, contract, claim, controversy, or other  
5 particular matter presenting a potential conflict  
6 of interest;

7 (B) makes full disclosure of the financial  
8 interest; and

9 (C) before the proceeding concerning the  
10 matter presenting the conflict of interest, re-  
11 ceives a written determination by the Authority  
12 that the interest is not so substantial as to be  
13 likely to affect the integrity of the services that  
14 the Authority may expect from the State mem-  
15 ber, State alternate, officer, employee, or  
16 detailee.

17 (3) VIOLATION.—Any person that violates this  
18 subsection shall be fined not more than \$10,000, im-  
19 prisoned not more than 2 years, or both.

20 (e) VALIDITY OF CONTRACTS, LOANS, AND  
21 GRANTS.—The Authority may declare void any contract,  
22 loan, or grant of or by the Authority in relation to which  
23 the Authority determines that there has been a violation  
24 of subsection (b), subsection (d), or any of sections 202  
25 through 209 of title 18, United States Code.

1 (f) APPLICABLE LABOR STANDARDS.—

2 (1) IN GENERAL.—All laborers and mechanics  
 3 employed by contractors or subcontractors in the  
 4 construction, alteration, or repair, including painting  
 5 and decorating, of projects, buildings, and works  
 6 funded by the United States under this Act, shall be  
 7 paid wages at not less than the prevailing wages on  
 8 similar construction in the locality as determined by  
 9 the Secretary of Labor in accordance with the Act  
 10 of March 3, 1931 (40 U.S.C. 276a et seq.).

11 (2) AUTHORITY.—With respect to the deter-  
 12 mination of wages under paragraph (1), the Sec-  
 13 retary of Labor shall have the authority and func-  
 14 tions set forth in Reorganization Plan No. 14 of  
 15 1950 (64 Stat. 1267) and section 2 of the Act of  
 16 June 13, 1934 (40 U.S.C. 276c).

17 **TITLE II—GRANTS AND**  
 18 **DEVELOPMENT PLANNING**

19 **SEC. 201. INFRASTRUCTURE DEVELOPMENT AND IMPROVE-**  
 20 **MENT.**

21 The Authority may approve grants to States, local  
 22 governments, and public and nonprofit organizations in  
 23 the region for projects, approved in accordance with sec-  
 24 tion 302, to develop and improve the transportation, water

1 and wastewater, public health, and telecommunications in-  
 2 frastructure of the region.

3 **SEC. 202. TECHNOLOGY DEVELOPMENT.**

4 The Authority may approve grants to small busi-  
 5 nesses, universities, national laboratories, and nonprofit  
 6 organizations in the region to research, develop, and dem-  
 7 onstrate technology that addresses—

8 (1) water quality;

9 (2) water quantity;

10 (3) pollution;

11 (4) transportation;

12 (5) energy consumption;

13 (6) public health;

14 (7) border and port security; and

15 (8) any other related matter that stimulates job  
 16 creation or enhances economic development, as de-  
 17 termined by the Authority.

18 **SEC. 203. COMMUNITY DEVELOPMENT AND ENTREPRE-  
 19 NEURSHIP.**

20 The Authority may approve grants to States, local  
 21 governments, and public or nonprofit entities for projects,  
 22 approved in accordance with section 302—

23 (1) to create dynamic local economies by—

24 (A) recruiting businesses to the region;

25 and

1 (B) increasing and expanding international  
2 trade to other countries;

3 (2) to foster entrepreneurship by—

4 (A) supporting the advancement of, and  
5 providing entrepreneurial training and edu-  
6 cation for, youths, students, and  
7 businesspersons;

8 (B) improving access to debt and equity  
9 capital by facilitating the establishment of de-  
10 velopment venture capital funds and other ap-  
11 propriate means;

12 (C) providing aid to communities in identi-  
13 fying, developing, and implementing develop-  
14 ment strategies for various sectors of the econ-  
15 omy; and

16 (D)(i) developing a working network of  
17 business incubators; and

18 (ii) supporting entities that provide busi-  
19 ness incubator services.

20 (3) to promote civic responsibility and leader-  
21 ship through activities that include—

22 (A) the identification and training of  
23 emerging leaders;

24 (B) the encouragement of citizen participa-  
25 tion; and

1 (C) the provision of assistance for strategic  
2 planning and organization development.

3 **SEC. 204. EDUCATION AND WORKFORCE DEVELOPMENT.**

4 The Authority, in coordination with State and local  
5 workforce development boards, may approve grants to  
6 States, local governments, and public or nonprofit entities  
7 for projects, approved in accordance with section 302—

8 (1) to assist the region in obtaining the job  
9 training, employment-related education, and busi-  
10 ness development (with an emphasis on entrepre-  
11 neurship) that are needed to build and maintain  
12 strong local economies; and

13 (2) to supplement in-plant training programs  
14 offered by State and local governments to attract  
15 new businesses to the region.

16 **SEC. 205. FUNDING.**

17 (a) IN GENERAL.—Funds for grants under sections  
18 201 through 204 may be provided—

19 (1) entirely from appropriations to carry out  
20 this Act;

21 (2) in combination with funds available under  
22 another Federal grant program or other Federal  
23 program; or

24 (3) in combination with funds from any other  
25 source, including—

1           (A) State and local governments, nonprofit  
2           organizations, and the private sector in the  
3           United States;

4           (B) the federal and local government of,  
5           and private sector in, Mexico; and

6           (C) the North American Development  
7           Bank.

8           (b) PRIORITY OF FUNDING.—The Authority shall  
9           award funding to each State in the region for activities  
10          in accordance with an order of priority to be determined  
11          by the State.

12          (c) BINATIONAL PROJECTS.—

13           (1) PROHIBITION ON PROVISION OF FUNDING  
14           TO NON-UNITED STATES ENTITIES.—The Authority  
15           shall not award funding to any entity that is not in-  
16           corporated in the United States.

17           (2) FUNDING OF BINATIONAL PROJECTS.—The  
18           Authority may award funding to a project in which  
19           an entity that is incorporated outside the United  
20           States participates if, for any fiscal year, the entity  
21           matches with an equal amount, in cash or in-kind,  
22           the assistance received under this Act for the fiscal  
23           year.

1 **SEC. 206. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.**

2 (a) FINDING.—Congress finds that certain States  
3 and local communities of the region, including local devel-  
4 opment districts, may be unable to take maximum advan-  
5 tage of Federal grant programs for which the States and  
6 communities are eligible because—

7 (1) they lack the economic resources to provide  
8 the required matching share; or

9 (2) there are insufficient funds available under  
10 the Federal law authorizing the Federal grant pro-  
11 gram to meet pressing needs of the region.

12 (b) FEDERAL GRANT PROGRAM FUNDING.—Not-  
13 withstanding any provision of law limiting the Federal  
14 share, the areas eligible for assistance, or the authoriza-  
15 tions of appropriations, under any Federal grant program,  
16 and in accordance with subsection (c), the Authority, with  
17 the approval of the Federal cochairperson and with respect  
18 to a project to be carried out in the region, may—

19 (1) increase the Federal share of the costs of a  
20 project under any Federal grant program to not  
21 more than 90 percent (except as provided in section  
22 209(b)); and

23 (2) use amounts made available to carry out  
24 this Act to pay all or a portion of the increased Fed-  
25 eral share.

26 (c) CERTIFICATIONS.—

1           (1) IN GENERAL.—In the case of any project  
2           for which all or any portion of the basic Federal  
3           share of the costs of the project is proposed to be  
4           paid under this section, no Federal contribution  
5           shall be made until the Federal official admin-  
6           istering the Federal law that authorizes the Federal  
7           grant program certifies that the project—

8                   (A) meets (except as provided in subsection  
9                   (b)) the applicable requirements of the applica-  
10                  ble Federal grant program; and

11                  (B) could be approved for Federal con-  
12                  tribution under the Federal grant program if  
13                  funds were available under the law for the  
14                  project.

15           (2) CERTIFICATION BY AUTHORITY.—

16                  (A) IN GENERAL.—The certifications and  
17                  determinations required to be made by the Au-  
18                  thority for approval of projects under this Act  
19                  in accordance with section 302—

20                          (i) shall be controlling; and

21                          (ii) shall be accepted by the Federal  
22                          agencies.

23                  (B) ACCEPTANCE BY FEDERAL COCHAIR-  
24                  PERSON.—In the case of any project described  
25                  in paragraph (1), any finding, report, certifi-



1 cation, or documentation required to be sub-  
 2 mitted with respect to the project to the head  
 3 of the department, agency, or instrumentality of  
 4 the Federal Government responsible for the ad-  
 5 ministration of the Federal grant program  
 6 under which the project is carried out shall be  
 7 accepted by the Federal cochairperson.

8 **SEC. 207. DEMONSTRATION PROJECTS.**

9 (a) IN GENERAL.—For each fiscal year, the Author-  
 10 ity may approve not more than 10 demonstration projects  
 11 to carry out activities described in sections 201 through  
 12 204, of which not more than 3 shall be carried out in any  
 13 1 State.

14 (b) REQUIREMENTS.—A demonstration project car-  
 15 ried out under this section shall—

16 (1) be carried out on a multistate or multi-  
 17 county basis; and

18 (2) be developed in accordance with the regional  
 19 development plan prepared under section 210(d).

20 **SEC. 208. LOCAL DEVELOPMENT DISTRICTS; CERTIFI-**  
 21 **CATION AND ADMINISTRATIVE EXPENSES.**

22 (a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

23 (1) IN GENERAL.—The Authority may make  
 24 grants to local development districts to pay the ad-

1       ministrative expenses of the local development dis-  
2       tricts.

3               (2) CONDITIONS FOR GRANTS.—

4                       (A) MAXIMUM AMOUNT.—The amount of  
5                       any grant awarded under paragraph (1) shall  
6                       not exceed 80 percent of the administrative ex-  
7                       penses of the local development district receiv-  
8                       ing the grant.

9                       (B) MAXIMUM PERIOD.—No grant de-  
10                      scribed in paragraph (1) shall be awarded for a  
11                      period greater than 3 years to a State agency  
12                      certified as a local development district.

13                     (C) LOCAL SHARE.—The contributions of  
14                     a local development district for administrative  
15                     expenses may be in cash or in kind, fairly evalu-  
16                     ated, including space, equipment, and services.

17               (b) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—

18 A local development district shall—

19               (1) operate as a lead organization serving  
20               multicounty areas in the region at the local level;  
21               and

22               (2) serve as a liaison between State and local  
23               governments, nonprofit organizations (including  
24               community-based groups and educational institu-  
25               tions), the business community, and citizens that—

1 (A) are involved in multijurisdictional plan-  
2 ning;

3 (B) provide technical assistance to local ju-  
4 risdictions and potential grantees; and

5 (C) provide leadership and civic develop-  
6 ment assistance.

7 **SEC. 209. DISTRESSED COUNTIES AND AREAS AND ECO-**  
8 **NOMICALLY STRONG COUNTIES.**

9 (a) DESIGNATIONS.—At the initial meeting of the  
10 Authority and annually thereafter, the Authority, in ac-  
11 cordance with such criteria as the Authority may establish,  
12 shall designate—

- 13 (1) distressed counties;
- 14 (2) economically strong counties;
- 15 (3) attainment counties;
- 16 (4) competitive counties; and
- 17 (5) isolated areas of distress.

18 (b) DISTRESSED COUNTIES.—

19 (1) IN GENERAL.—For each fiscal year, the Au-  
20 thority shall allocate at least 40 percent of the  
21 amounts made available under section 306 for pro-  
22 grams and projects designed to serve the needs of  
23 distressed counties and isolated areas of distress in  
24 the region.

1           (2) FUNDING LIMITATIONS.—The funding limi-  
2           tations under section 206(b) shall not apply to a  
3           project to provide transportation or basic public  
4           services to residents of 1 or more distressed counties  
5           or isolated areas of distress in the region.

6           (c) ECONOMICALLY STRONG COUNTIES.—

7           (1) ATTAINMENT COUNTIES.—Except as pro-  
8           vided in paragraph (3), the Authority shall not pro-  
9           vide funds for a project located in a county des-  
10          ignated as an attainment county under subsection  
11          (a)(2)(A).

12          (2) COMPETITIVE COUNTIES.—Except as pro-  
13          vided in paragraph (3), the Authority shall not pro-  
14          vide more than 30 percent of the total cost of any  
15          project carried out in a county designated as a com-  
16          petitive county under subsection (a)(2)(B).

17          (3) EXCEPTIONS.—

18           (A) IN GENERAL.—The funding prohibi-  
19           tion under paragraph (1) and the funding limi-  
20           tation under paragraph (2) shall not apply to  
21           grants to fund the administrative expenses of  
22           local development districts under section  
23           208(a).

24           (B) MULTICOUNTY PROJECTS.—If the Au-  
25           thority determines that a project could bring

1 significant benefits to areas of the region out-  
2 side an attainment or competitive county, the  
3 Authority may waive the application of the  
4 funding prohibition under paragraph (1) and  
5 the funding limitation under paragraph (2)  
6 to—

7 (i) a multicounty project that includes  
8 participation by an attainment or competi-  
9 tive county; or

10 (ii) any other type of project.

11 (4) ISOLATED AREAS OF DISTRESS.—For a des-  
12 ignation of an isolated area of distress for assistance  
13 to be effective, the designation shall be supported—

14 (A) by the most recent Federal data avail-  
15 able; or

16 (B) if no recent Federal data are available,  
17 by the most recent data available through the  
18 government of the State in which the isolated  
19 area of distress is located.

20 **SEC. 210. DEVELOPMENT PLANNING PROCESS.**

21 (a) STATE DEVELOPMENT PLAN.—In accordance  
22 with policies established by the Authority, each State  
23 member shall submit an annual development plan for the  
24 area of the region represented by the State member to

1 assist the Authority in determining funding priorities  
2 under section 205(b).

3 (b) CONSULTATION WITH INTERESTED PARTIES.—

4 In carrying out the development planning process (includ-  
5 ing the selection of programs and projects for assistance),  
6 a State shall—

7 (1) consult with—

8 (A) local development districts; and

9 (B) local units of government;

10 (2) take into consideration the goals, objectives,  
11 priorities, and recommendations of the entities de-  
12 scribed in paragraph (1); and

13 (3) solicit input on and take into consideration  
14 the potential impact of the State development plan  
15 on the binational region.

16 (c) PUBLIC PARTICIPATION.—

17 (1) IN GENERAL.—The Authority and applica-  
18 ble State and local development districts shall en-  
19 courage and assist, to the maximum extent prac-  
20 ticable, public participation in the development, revi-  
21 sion, and implementation of all plans and programs  
22 under this Act.

23 (2) REGULATIONS.—The Authority shall de-  
24 velop guidelines for providing public participation

1 described in paragraph (1), including public hear-  
2 ings.

3 (d) REGIONAL DEVELOPMENT PLAN.—The Author-  
4 ity shall prepare an annual regional development plan  
5 that—

6 (1) is based on State development plans sub-  
7 mitted under subsection (a);

8 (2) takes into account—

9 (A) the input of the private sector, aca-  
10 demia, and nongovernmental organizations; and

11 (B) the potential impact of the regional de-  
12 velopment plan on the binational region;

13 (3) establishes 5-year goals for the development  
14 of the region;

15 (4) identifies and recommends to the States—

16 (A) potential multistate or multicounty  
17 projects that further the goals for the region;  
18 and

19 (B) potential development projects for the  
20 binational region; and

21 (5) identifies and recommends to the Authority  
22 for funding demonstration projects under section  
23 207.

# 1       **TITLE III—ADMINISTRATION**

## 2       **SEC. 301. PROGRAM DEVELOPMENT CRITERIA.**

3       (a) IN GENERAL.—In considering programs and  
4 projects to be provided assistance under this Act, and in  
5 establishing a priority ranking of the requests for assist-  
6 ance provided to the Authority, the Authority shall follow  
7 procedures that ensure, to the maximum extent prac-  
8 ticable, consideration of—

9               (1) the relationship of the project or class of  
10 projects to overall regional development;

11              (2) the per capita income and poverty and un-  
12 employment rates in an area;

13              (3) the financial resources available to the ap-  
14 plicants for assistance seeking to carry out the  
15 project, with emphasis on ensuring that projects are  
16 adequately financed to maximize the probability of  
17 successful economic development;

18              (4) the socioeconomic importance of the project  
19 or class of projects in relation to other projects or  
20 classes of projects that may be in competition for  
21 the same funds;

22              (5) the prospects that the project for which as-  
23 sistance is sought will improve, on a continuing rath-  
24 er than a temporary basis, the opportunities for em-  
25 ployment, the average level of income, or the eco-



1        nomic development of the area to be served by the  
 2        project; and

3            (6) the extent to which the project design pro-  
 4        vides for detailed outcome measurements by which  
 5        grant expenditures and the results of the expendi-  
 6        tures may be evaluated.

7        (b) NO RELOCATION ASSISTANCE.—No financial as-  
 8        sistance authorized by this Act shall be used to assist a  
 9        person or entity in relocating from 1 area to another, ex-  
 10       cept that financial assistance may be used as otherwise  
 11       authorized by this Act to attract businesses from outside  
 12       the region to the region.

13        (c) MAINTENANCE OF EFFORT.—Funds may be pro-  
 14       vided for a program or project in a State under this Act  
 15       only if the Authority determines that the level of Federal  
 16       or State financial assistance provided under a law other  
 17       than this Act, for the same type of program or project  
 18       in the same area of the State within the region, will not  
 19       be reduced as a result of funds made available by this Act.

20        **SEC. 302. APPROVAL OF DEVELOPMENT PLANS AND**  
 21        **PROJECTS.**

22        (a) IN GENERAL.—A State or regional development  
 23       plan or any multistate subregional plan that is proposed  
 24       for development under this Act shall be reviewed by the  
 25       Authority.

1           (b) EVALUATION BY STATE MEMBER.—An applica-  
2 tion for a grant or any other assistance for a project under  
3 this Act shall be made through and evaluated for approval  
4 by the State member of the Authority representing the  
5 applicant.

6           (c) CERTIFICATION.—An application for a grant or  
7 other assistance for a project shall be approved only on  
8 certification by the State member that the application for  
9 the project—

10           (1) describes ways in which the project complies  
11 with any applicable State development plan;

12           (2) meets applicable criteria under section 301;

13           (3) provides adequate assurance that the pro-  
14 posed project will be properly administered, oper-  
15 ated, and maintained; and

16           (4) otherwise meets the requirements of this  
17 Act.

18           (d) VOTES FOR DECISIONS.—On certification by a  
19 State member of the Authority of an application for a  
20 grant or other assistance for a specific project under this  
21 section, an affirmative vote of the Authority under section  
22 101(d) shall be required for approval of the application.

1 **SEC. 303. CONSENT OF STATES.**

2 Nothing in this Act requires any State to engage in  
3 or accept any program under this Act without the consent  
4 of the State.

5 **SEC. 304. RECORDS.**

6 (a) RECORDS OF THE AUTHORITY.—

7 (1) IN GENERAL.—The Authority shall main-  
8 tain accurate and complete records of all trans-  
9 actions and activities of the Authority.

10 (2) AVAILABILITY.—All records of the Author-  
11 ity shall be available for audit and examination by  
12 the Comptroller General of the United States (in-  
13 cluding authorized representatives of the Comp-  
14 troller General).

15 (b) RECORDS OF RECIPIENTS OF FEDERAL ASSIST-  
16 ANCE.—

17 (1) IN GENERAL.—A recipient of Federal funds  
18 under this Act shall, as required by the Authority,  
19 maintain accurate and complete records of trans-  
20 actions and activities financed with Federal funds  
21 and report to the Authority on the transactions and  
22 activities.

23 (2) AVAILABILITY.—All records required under  
24 paragraph (1) shall be available for audit by the  
25 Comptroller General of the United States and the

1 Authority (including authorized representatives of  
2 the Comptroller General and the Authority).

3 (c) ANNUAL AUDIT.—The Comptroller General of the  
4 United States shall audit the activities, transactions, and  
5 records of the Authority on an annual basis.

6 **SEC. 305. ANNUAL REPORT.**

7 (a) IN GENERAL.—Not later than 180 days after the  
8 end of each fiscal year, the Authority shall submit to the  
9 President and to Congress a report describing the activi-  
10 ties carried out under this Act.

11 (b) CONTENTS.—

12 (1) IN GENERAL.—The report shall include—

13 (A) an evaluation of the progress of the  
14 Authority—

15 (i) in meeting the goals set forth in  
16 the regional development plan and the  
17 State development plans; and

18 (ii) in working with other Federal  
19 agencies and the border programs adminis-  
20 tered by the Federal agencies;

21 (B) examples of notable projects in each  
22 State;

23 (C) a description of all demonstration  
24 projects funded under section 306(b) during the

1 fiscal year preceding submission of the report;  
2 and

3 (D) any policy recommendations approved  
4 by the Authority.

5 (2) INITIAL REPORT.—In addition to the con-  
6 tents specified in paragraph (1), the initial report  
7 submitted under this section shall include—

8 (A) a determination as to whether the cre-  
9 ation of a loan fund to be administered by the  
10 Authority is necessary; and

11 (B) if the Authority determines that a loan  
12 fund is necessary—

13 (i) a request for the authority to es-  
14 tablish a loan fund; and

15 (ii) a description of the eligibility cri-  
16 teria and performance requirements for the  
17 loans.

18 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There are authorized to be appro-  
20 priated to the Authority to carry out this Act, to remain  
21 available until expended—

22 (1) \$50,000,000 for fiscal year 2003;

23 (2) \$75,000,000 for fiscal year 2004;

24 (3) \$90,000,000 for fiscal year 2005; and

25 (4) \$92,000,000 for fiscal year 2006.

1       (b) DEMONSTRATION PROJECTS.—Of the funds  
2 made available under subsection (a), \$5,000,000 for each  
3 fiscal year shall be available to the Authority to carry out  
4 section 207.

5 **SEC. 307. TERMINATION OF AUTHORITY.**

6       The authority provided by this Act terminates effec-  
7 tive October 1, 2006.

○