

110TH CONGRESS  
1ST SESSION

# H. R. 2068

To establish the Southwest Regional Border Authority.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2007

Mr. REYES (for himself, Mr. HINOJOSA, Mr. FILNER, Mr. ORTIZ, Mr. CUELLAR, Mr. RODRIGUEZ, Ms. GIFFORDS, Mr. GRIJALVA, and Mrs. DAVIS of California) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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;

1           (4) per capita personal income in the region is  
2 significantly below the national average and much of  
3 the income in the region is distributed through wel-  
4 fare programs, retirement programs, and unemploy-  
5 ment payments;

6           (5) a lack of adequate access to capital in the  
7 region—

8                   (A) has created economic disparities be-  
9 tween communities in the region and commu-  
10 nities outside the region; and

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

13           (6) it has been difficult for displaced workers in  
14 the region to find employment because many work-  
15 ers—

16                   (A) have limited English language pro-  
17 ficiency; and

18                   (B) lack adequate English language and  
19 job training;

20           (7) many residents of the region live in commu-  
21 nities referred to as “colonias” that lack basic neces-  
22 sities, including running water, sewers, storm drain-  
23 age, and electricity;

24           (8) many of the problems that exist in the re-  
25 gion could be solved or ameliorated by technology

1 that would contribute to economic development in  
2 the region;

3 (9) while numerous Federal, State, and local  
4 programs target financial resources to the region,  
5 those programs are often uncoordinated, duplicative,  
6 and, in some cases, unavailable to eligible border  
7 communities because those communities cannot af-  
8 ford the required funding match;

9 (10) Congress has established several regional  
10 economic development commissions, including the  
11 Appalachian Regional Commission, the Delta Re-  
12 gional Authority, and the Denali Commission, to im-  
13 prove the economies of those areas of the United  
14 States that experience the greatest economic dis-  
15 tress; and

16 (11) many of the counties in the region are  
17 among the most economically distressed in the  
18 United States and would benefit from a regional eco-  
19 nomic development commission.

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

21 (1) to establish a regional economic develop-  
22 ment authority for the Southwest Border region to  
23 address critical issues relating to the economic  
24 health and well-being of the residents of the region;

1           (2) to provide funding to communities in the re-  
2           gion to stimulate and foster infrastructure develop-  
3           ment, technology development, community develop-  
4           ment and entrepreneurship, and education and  
5           workforce development in the region;

6           (3) to increase the total amount of Federal  
7           funding available for border economic development  
8           projects by coordinating with and reducing duplica-  
9           tion of other Federal, State, and local programs; and

10          (4) to empower the people of the region through  
11          the use of local development districts and State and  
12          regional development plans that reflect State and  
13          local priorities.

14 **SEC. 3. DEFINITIONS.**

15          In this Act, the following definitions apply:

16          (1) **ATTAINMENT COUNTY.**—The term “attain-  
17          ment county” means an economically strong county  
18          that is not a distressed county or a competitive  
19          county.

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

23          (3) **BINATIONAL REGION.**—The term “bina-  
24          tional region” means the area in the United States  
25          and Mexico that is within 150 miles of the inter-

1 national border between the United States and Mex-  
2 ico.

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

5 (A) a legal service, including aid in pre-  
6 paring a corporate charter, partnership agree-  
7 ment, or contract;

8 (B) a service in support of the protection  
9 of intellectual property through a patent, a  
10 trademark, or any other means;

11 (C) a service in support of the acquisition  
12 or use of advanced technology, including the  
13 use of Internet services and Web-based services;  
14 and

15 (D) consultation on strategic planning,  
16 marketing, or advertising.

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

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

23 (A)(i) has a poverty rate that is at least  
24 150 percent of the poverty rate of the United  
25 States;

1           (ii) has a per capita market income that is  
2           not more than 67 percent of the per capita  
3           market income of the United States; and

4           (iii) has a 3-year unemployment rate that  
5           is at least 150 percent of the unemployment  
6           rate of the United States; or

7           (B)(i) has a poverty rate that is at least  
8           200 percent of the poverty rate of the United  
9           States; and

10          (ii)(I) has a per capita market income that  
11          is not more than 67 percent of the per capita  
12          market income of the United States; or

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

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

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

22                (A) acquiring or developing land;

23                (B) constructing or equipping a highway,  
24                road, bridge, or facility; or

1 (C) carrying out other economic develop-  
2 ment activities.

3 (9) INDIAN TRIBE.—The term “Indian tribe”  
4 has the meaning given the term in section 4 of the  
5 Indian Self-Determination and Education Assistance  
6 Act (25 U.S.C. 450b).

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

12 (11) LOCAL DEVELOPMENT DISTRICT.—The  
13 term “local development district” means an entity  
14 that—

15 (A)(i) is an economic development district  
16 that is—

17 (I) in existence on the date of enact-  
18 ment of this Act; and

19 (II) recognized by the Economic De-  
20 velopment Administration; and

21 (III) located in the region; or

22 (ii) if an entity described in clause (i) does  
23 not exist—

24 (I) is organized and operated in a  
25 manner that ensures broad-based commu-



1 nity participation and an effective oppor-  
2 tunity for local officials, community lead-  
3 ers, and the public to contribute to the de-  
4 velopment and implementation of programs  
5 in the region;

6 (II) is governed by a policy board with  
7 at least a simple majority of members con-  
8 sisting of designees or employees of a gen-  
9 eral purpose unit of local government that  
10 have been appointed to represent the unit  
11 of local government or elected officials; and

12 (III) is certified by the Governor or  
13 appropriate State officer as having a char-  
14 ter or authority that includes the economic  
15 development of counties, portions of coun-  
16 ties, or other political subdivisions within  
17 the region; and

18 (B) has not, as certified by the Federal co-  
19 chairperson—

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

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

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

3 (12) 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 (13) 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  
19 the 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)(A) enhance the capacity of, and provide  
24          support for, local development districts in the region;  
25          or

1 (B) if there is no local development district de-  
2 scribed in clause (i) of section 3(11)(A) for a portion  
3 of the region, foster the creation of a local develop-  
4 ment district;

5 (5) review and study Federal, State, and local  
6 public and private programs and, as appropriate,  
7 recommend modifications or additions to increase  
8 the effectiveness of the programs;

9 (6) formulate and recommend, as appropriate,  
10 interstate and international compacts and other  
11 forms of interstate and international cooperation;

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

14 (8) provide a forum for consideration of the  
15 problems of the region and any proposed solutions to  
16 those problems;

17 (9) establish and use, as appropriate, citizens,  
18 special advisory counsels, and public conferences;  
19 and

20 (10) provide a coordinating mechanism to avoid  
21 duplication of efforts among the border programs of  
22 the Federal agencies and the programs established  
23 under the North American Free Trade Agreement  
24 entered into by the United States, Mexico, and Can-  
25 ada on December 17, 1992.



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

3 (1) hold such hearings, sit and act at such  
4 times and places, take such testimony, receive such  
5 evidence, and print or otherwise reproduce and dis-  
6 tribute a description of the proceedings of, and re-  
7 ports on actions by, the Authority as the Authority  
8 considers appropriate;

9 (2) request from any Federal, State, or local  
10 agency such information as may be available to or  
11 procurable by the agency that may be of use to the  
12 Authority in carrying out the duties of the Author-  
13 ity;

14 (3) maintain an accurate and complete record  
15 of all transactions and activities of the Authority, to  
16 be available for audit and examination by the Comp-  
17 troller General of the United States;

18 (4) adopt, amend, and repeal bylaws and rules  
19 governing the conduct of business and the perform-  
20 ance of duties of the Authority;

21 (5) request the head of any Federal agency to  
22 detail to the Authority, for a specified period of  
23 time, such personnel as the Authority requires to  
24 carry out duties of the Authority, each such detail

1 to be without loss of seniority, pay, or other em-  
2 ployee status;

3 (6) request the head of any State department  
4 or agency or local government to detail to the Au-  
5 thority, for a specified period of time, such personnel  
6 as the Authority requires to carry out the duties of  
7 the Authority, each such detail to be without loss of  
8 seniority, pay, or other employee status;

9 (7) make recommendations to the President re-  
10 garding—

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

13 (B) additional Federal, State, and local  
14 legislation that may be necessary to further the  
15 purposes of this Act;

16 (8) provide for coverage of Authority employees  
17 in a suitable retirement and employee benefit system  
18 by—

19 (A) making arrangements or entering into  
20 contracts with any participating State govern-  
21 ment; or

22 (B) otherwise providing retirement and  
23 other employee benefit coverage;

1           (9) accept, use, and dispose of gifts or dona-  
2           tions of services or real, personal, tangible, or intan-  
3           gible property;

4           (10) enter into and perform such contracts,  
5           leases, cooperative agreements, or other transactions  
6           as are necessary to carry out the duties of the Au-  
7           thority;

8           (11) establish and maintain—

9                   (A) a headquarters for the Authority, to be  
10                  located at a site that is not more than 100 kilo-  
11                  meters from the international border between  
12                  the United States and Mexico; and

13                   (B) at least 1 field office in each of the  
14                  States of Arizona, California, New Mexico, and  
15                  Texas, to be located at appropriate sites in the  
16                  region that are not more than 100 kilometers  
17                  from the international border between the  
18                  United States and Mexico; and

19           (12) provide for an appropriate level of rep-  
20           resentation in Washington, D.C.

21           (c) FEDERAL AGENCY COOPERATION.—A Federal  
22           agency shall—

23                   (1) cooperate with the Authority; and

24                   (2) provide, on request of the Federal cochair-  
25                  person, appropriate assistance in carrying out this

1 Act, in accordance with applicable Federal laws (in-  
2 cluding regulations).

3 (d) ADMINISTRATIVE EXPENSES.—

4 (1) IN GENERAL.—

5 (A) ADMINISTRATIVE EXPENSES.—Subject  
6 to paragraph (2), administrative expenses of the  
7 Authority shall be paid—

8 (i) by the Federal Government, in an  
9 amount equal to 60 percent of the admin-  
10 istrative expenses; and

11 (ii) by the States in the region that  
12 elect to participate in the Authority, in an  
13 amount equal to 40 percent of the admin-  
14 istrative expenses.

15 (B) EXPENSES OF FEDERAL CHAIR-  
16 PERSON.—All expenses of the Federal cochair-  
17 person, including expenses of the alternate and  
18 staff of the Federal cochairperson, shall be paid  
19 by the Federal Government.

20 (2) STATE SHARE.—

21 (A) IN GENERAL.—Subject to subpara-  
22 graph (C), the share of administrative expenses  
23 of the Authority to be paid by each State shall  
24 be determined by a unanimous vote of the State  
25 members of the Authority.

1 (B) NO FEDERAL PARTICIPATION.—The  
2 Federal cochairperson shall not participate or  
3 vote in any decision under subparagraph (A).

4 (C) LIMITATION.—A State shall not pay  
5 less than 10 nor more than 40 percent of the  
6 share of administrative expenses of the Author-  
7 ity determined under paragraph (1)(A)(ii).

8 (D) DELINQUENT STATES.—During any  
9 period in which a State is more than 1 year de-  
10 linquent in payment of the State’s share of ad-  
11 ministrative expenses of the Authority under  
12 this subsection (as determined by the Sec-  
13 retary)—

14 (i) no assistance under this Act shall  
15 be provided to the State (including assist-  
16 ance to a political subdivision or a resident  
17 of the State) for any project not approved  
18 as of the date of the commencement of the  
19 delinquency; and

20 (ii) no member of the Authority from  
21 the State shall participate or vote in any  
22 action by the Authority.

23 (E) EFFECT ON ASSISTANCE.—A State’s  
24 share of administrative expenses of the Author-  
25 ity under this subsection shall not be taken into

1 consideration in determining the amount of as-  
2 sistance provided to the State under title II.

3 **SEC. 103. AUTHORITY PERSONNEL MATTERS.**

4 (a) COMPENSATION OF MEMBERS.—

5 (1) FEDERAL COCHAIRPERSON.—The Federal  
6 cochairperson shall be compensated by the Federal  
7 Government at the annual rate of basic pay pre-  
8 scribed for level III of the Executive Schedule in  
9 subchapter II of chapter 53 of title 5, United States  
10 Code.

11 (2) ALTERNATE FEDERAL COCHAIRPERSON.—  
12 The alternate Federal cochairperson—

13 (A) shall be compensated by the Federal  
14 Government at the annual rate of basic pay  
15 prescribed for level V of the Executive Schedule  
16 described in paragraph (1); and

17 (B) when not actively serving as an alter-  
18 nate for the Federal cochairperson, shall per-  
19 form such functions and duties as are delegated  
20 by the Federal cochairperson.

21 (3) STATE MEMBERS AND ALTERNATES.—

22 (A) IN GENERAL.—A State shall com-  
23 pensate each member and alternate member  
24 representing the State on the Authority at the  
25 rate established by State law.

1           (B) NO ADDITIONAL COMPENSATION.—No  
2           State member or alternate member shall receive  
3           any salary, or any contribution to or sup-  
4           plementation of salary, from any source other  
5           than the State for services provided by the  
6           member or alternate member to the Authority.

7           (b) DETAILED EMPLOYEES.—

8           (1) IN GENERAL.—No person detailed to serve  
9           the Authority under section 102(b)(6) shall receive  
10          any salary, or any contribution to or supplemen-  
11          tation of salary, for services provided to the Author-  
12          ity from—

13                 (A) any source other than the State, local,  
14                 or intergovernmental department or agency  
15                 from which the person was detailed; or

16                 (B) the Authority.

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

20          (c) ADDITIONAL PERSONNEL.—

21                 (1) COMPENSATION.—

22                         (A) IN GENERAL.—The Authority may ap-  
23                         point and fix the compensation of an executive  
24                         director and such other personnel as are nec-

1           essary to enable the Authority to carry out the  
2           duties of the Authority.

3           (B) EXCEPTION.—Compensation under  
4           subparagraph (A) shall not exceed the max-  
5           imum rate of basic pay established for the Sen-  
6           ior Executive Service under section 5382 of title  
7           5, United States Code, including any applicable  
8           locality-based comparability payment that may  
9           be authorized under section 5304(h)(2)(C) of  
10          that title.

11          (2) EXECUTIVE DIRECTOR.—The executive di-  
12          rector shall be responsible for—

13                 (A) carrying out the administrative duties  
14                 of the Authority;

15                 (B) directing the Authority staff; and

16                 (C) carrying out such other duties as the  
17                 Authority may assign.

18          (3) NO FEDERAL EMPLOYEE STATUS.—No  
19          member, alternate, officer, or employee of the Au-  
20          thority (other than the Federal cochairperson, the  
21          alternate Federal cochairperson, staff of the Federal  
22          cochairperson, and any Federal employee detailed to  
23          the Authority under subsection (b)) shall be consid-  
24          ered to be a Federal employee for any purpose.

25          (d) CONFLICTS OF INTEREST.—



1           (1) IN GENERAL.—Except as provided under  
2 paragraph (2), no State member, State alternate, of-  
3 ficer, employee, or detailee of the Authority shall  
4 participate personally and substantially as a mem-  
5 ber, alternate, officer, employee, or detailee of the  
6 Authority, through decision, approval, disapproval,  
7 recommendation, the rendering of advice, investiga-  
8 tion, or otherwise, in any proceeding, application, re-  
9 quest for a ruling or other determination, contract,  
10 claim, controversy, or other matter in which the  
11 member, alternate, officer, employee, or detailee has  
12 a financial interest.

13           (2) DISCLOSURE.—Paragraph (1) shall not  
14 apply if the State member, State alternate, officer,  
15 employee, or detailee—

16           (A) immediately advises the Authority of  
17 the nature and circumstances of the proceeding,  
18 application, request for a ruling or other deter-  
19 mination, contract, claim, controversy, or other  
20 particular matter presenting a potential conflict  
21 of interest;

22           (B) makes full disclosure of the financial  
23 interest; and

24           (C) before the proceeding concerning the  
25 matter presenting the conflict of interest, re-

1 ceives a written determination by the Authority  
2 that the interest is not so substantial as to be  
3 likely to affect the integrity of the services that  
4 the Authority may expect from the State mem-  
5 ber, State alternate, officer, employee, or  
6 detailee.

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

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

16 (f) APPLICABLE LABOR STANDARDS.—

17 (1) IN GENERAL.—All laborers and mechanics  
18 employed by contractors or subcontractors in the  
19 construction, alteration, or repair, including painting  
20 and decorating, of projects, buildings, and works  
21 funded by the United States under this Act, shall be  
22 paid wages at not less than the prevailing wages on  
23 similar construction in the locality as determined by  
24 the Secretary of Labor in accordance with sections

1 3141–3144, 3146, and 3147 of title 40, United  
2 States Code.

3 (2) **AUTHORITY.**—With respect to the deter-  
4 mination of wages under paragraph (1), the Sec-  
5 retary of Labor shall have the authority and func-  
6 tions set forth in Reorganization Plan No. 14 of  
7 1950 (64 Stat. 1267) and section 3145 of title 40,  
8 United States Code.

9 **TITLE II—GRANTS AND**  
10 **DEVELOPMENT PLANNING**

11 **SEC. 201. INFRASTRUCTURE DEVELOPMENT AND IMPROVE-**  
12 **MENT.**

13 The Authority may approve grants to States, local  
14 governments, Indian tribes, and public and nonprofit orga-  
15 nizations in the region for projects, approved in accord-  
16 ance with section 302, to develop and improve the trans-  
17 portation, water and wastewater, public health, and tele-  
18 communications infrastructure of the region.

19 **SEC. 202. TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.**

20 The Authority may approve grants to small busi-  
21 nesses, universities, national laboratories, and nonprofit  
22 organizations in the region to research, develop, dem-  
23 onstrate, and deploy technology that addresses—

24 (1) water quality;

25 (2) water quantity;

- 1 (3) pollution;
- 2 (4) transportation;
- 3 (5) energy consumption;
- 4 (6) public health;
- 5 (7) border and port security; and
- 6 (8) any other related matter that stimulates job
- 7 creation or enhances economic development in the
- 8 region, as determined by the Authority.

9 **SEC. 203. COMMUNITY DEVELOPMENT AND ENTREPRE-**  
10 **NEURSHIP.**

11 The Authority may approve grants to States, local  
12 governments, Indian tribes, small businesses, and public  
13 or nonprofit entities for projects, approved in accordance  
14 with section 302—

- 15 (1) to create dynamic local economies by—
  - 16 (A) recruiting businesses to the region;
  - 17 and
  - 18 (B) increasing and expanding international
  - 19 trade to other countries;
- 20 (2) to foster entrepreneurship by—
  - 21 (A) supporting the advancement of, and
  - 22 providing entrepreneurial training and edu-
  - 23 cation for, youths, students, and
  - 24 businesspersons;

1 (B) improving access to debt and equity  
2 capital by facilitating the establishment of de-  
3 velopment venture capital funds and other ap-  
4 propriate means;

5 (C) providing aid to communities in identi-  
6 fying, developing, and implementing develop-  
7 ment strategies for various sectors of the econ-  
8 omy; and

9 (D)(i) developing a working network of  
10 business incubators; and

11 (ii) supporting entities that provide busi-  
12 ness incubator services; and

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

15 (A) the identification and training of  
16 emerging leaders;

17 (B) the encouragement of citizen participa-  
18 tion; and

19 (C) the provision of assistance for strategic  
20 planning and organization development.

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

22 The Authority, in coordination with State and local  
23 workforce development boards, may approve grants to  
24 States, local governments, Indian tribes, small businesses,

1 and public or nonprofit entities for projects, approved in  
2 accordance with section 302—

3 (1) to assist the region in obtaining the job  
4 training, employment-related education, and busi-  
5 ness development (with an emphasis on entrepre-  
6 neurship) that are needed to build and maintain  
7 strong local economies; and

8 (2) to supplement in-plant training programs  
9 offered by State and local governments to attract  
10 new businesses to the region.

11 **SEC. 205. FUNDING.**

12 (a) IN GENERAL.—Funds for grants under sections  
13 201 through 204 may be provided—

14 (1) entirely from appropriations to carry out  
15 this Act;

16 (2) in combination with funds available under  
17 another Federal grant program or other Federal  
18 program; or

19 (3) in combination with funds from any other  
20 source, including—

21 (A) State and local governments, nonprofit  
22 organizations, and the private sector in the  
23 United States;

24 (B) the federal and local government of,  
25 and private sector in, Mexico; and

1 (C) the North American Development  
2 Bank.

3 (b) PRIORITY OF FUNDING.—

4 (1) IN GENERAL.—Subject to paragraph (2),  
5 the Authority shall award funding to each State in  
6 the region for activities in accordance with an order  
7 of priority to be determined by the State.

8 (2) FUNDING FOR BORDER COUNTIES.—For  
9 each fiscal year, the Authority shall allocate at least  
10 60 percent of the amounts made available under sec-  
11 tion 306 for programs and projects designed to serve  
12 the needs of—

13 (A) distressed counties located along the  
14 international border between the United States  
15 and Mexico; and

16 (B) isolated areas of distress located with-  
17 in counties along the international border be-  
18 tween the United States and Mexico.

19 (c) BINATIONAL PROJECTS.—

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

24 (2) FUNDING OF BINATIONAL PROJECTS.—The  
25 Authority may award funding to a project in which

1 an entity that is incorporated outside the United  
2 States participates if, for any fiscal year, the entity  
3 matches with an equal amount, in cash or in-kind,  
4 the assistance received under this Act for the fiscal  
5 year.

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

7 (a) FINDING.—Congress finds that certain States  
8 and local communities of the region, including local devel-  
9 opment districts, may be unable to take maximum advan-  
10 tage of Federal grant programs for which the States and  
11 communities are eligible because—

12 (1) they lack the economic resources to provide  
13 the required matching share; or

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

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

24 (1) increase the Federal share of the costs of a  
25 project under any Federal grant program to not



1 more than 90 percent (except as provided in section  
2 209(b)); and

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

6 (c) CERTIFICATIONS.—

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

14 (A) meets (except as provided in subsection  
15 (b)) the applicable requirements of the applica-  
16 ble Federal grant program; and

17 (B) could be approved for Federal con-  
18 tribution under the Federal grant program if  
19 funds were available under the law for the  
20 project.

21 (2) CERTIFICATION BY AUTHORITY.—

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

- 1 (i) shall be controlling; and  
2 (ii) shall be accepted by the Federal  
3 agencies.

4 (B) ACCEPTANCE BY FEDERAL COCHAIR-  
5 PERSON.—In the case of any project described  
6 in paragraph (1), any finding, report, certifi-  
7 cation, or documentation required to be sub-  
8 mitted with respect to the project to the head  
9 of the department, agency, or instrumentality of  
10 the Federal Government responsible for the ad-  
11 ministration of the Federal grant program  
12 under which the project is carried out shall be  
13 accepted by the Federal cochairperson.

14 **SEC. 207. DEMONSTRATION PROJECTS.**

15 (a) IN GENERAL.—For each fiscal year, the Author-  
16 ity may approve not more than 10 demonstration projects  
17 to carry out activities described in sections 201 through  
18 204, of which not more than 3 shall be carried out in any  
19 1 State.

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

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

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

1 **SEC. 208. LOCAL DEVELOPMENT DISTRICTS; CERTIFI-**  
2 **CATION AND ADMINISTRATIVE EXPENSES.**

3 (a) **GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—**

4 (1) **IN GENERAL.—**The Authority shall make  
5 grants to local development districts to pay the ad-  
6 ministrative expenses of the local development dis-  
7 tricts.

8 (2) **CONDITIONS FOR GRANTS.—**

9 (A) **MAXIMUM AMOUNT.—**The amount of  
10 any grant awarded under paragraph (1) shall  
11 not exceed 80 percent of the administrative ex-  
12 penses of the local development district receiv-  
13 ing the grant.

14 (B) **MAXIMUM PERIOD.—**No grant de-  
15 scribed in paragraph (1) shall be awarded for a  
16 period greater than 3 years to a State agency  
17 certified as a local development district.

18 (C) **LOCAL SHARE.—**The contributions of  
19 a local development district for administrative  
20 expenses may be in cash or in kind, fairly evalu-  
21 ated, including space, equipment, and services.

22 (b) **DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—**

23 A local development district shall—

24 (1) operate as a lead organization serving  
25 multicounty areas in the region at the local level;

1           (2) assist the Authority in carrying out out-  
2 reach activities for local governments, community  
3 development groups, the business community, and  
4 the public;

5           (3) serve as a liaison between State and local  
6 governments, nonprofit organizations (including  
7 community-based groups and educational institu-  
8 tions), the business community, and citizens; and

9           (4) assist the individuals and entities described  
10 in paragraph (3) in identifying, assessing, and facili-  
11 tating projects and programs to promote the eco-  
12 nomic development of the region.

13 **SEC. 209. DISTRESSED COUNTIES AND AREAS AND ECO-**  
14 **NOMICALLY STRONG COUNTIES.**

15       (a) DESIGNATIONS.—At the initial meeting of the  
16 Authority and annually thereafter, the Authority, in ac-  
17 cordance with such criteria as the Authority may establish,  
18 shall designate—

- 19           (1) distressed counties;  
20           (2) economically strong counties;  
21           (3) attainment counties;  
22           (4) competitive counties; and  
23           (5) isolated areas of distress.

24       (b) DISTRESSED COUNTIES.—

1           (1) IN GENERAL.—For each fiscal year, the Au-  
2           thority shall allocate at least 50 percent of the  
3           amounts made available under section 306 for pro-  
4           grams and projects designed to serve the needs of  
5           distressed counties and isolated areas of distress in  
6           the region.

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

12          (c) ECONOMICALLY STRONG COUNTIES.—

13           (1) ATTAINMENT COUNTIES.—Except as pro-  
14           vided in paragraph (3), the Authority shall not pro-  
15           vide funds for a project located in a county des-  
16           ignated as an attainment county under subsection  
17           (a)(3).

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

23           (3) EXCEPTIONS.—

24           (A) IN GENERAL.—The funding prohibi-  
25           tion under paragraph (1) and the funding limi-

1           tation under paragraph (2) shall not apply to  
2           grants to fund the administrative expenses of  
3           local development districts under section  
4           208(a).

5           (B) MULTICOUNTY PROJECTS.—If the Au-  
6           thority determines that a project could bring  
7           significant benefits to areas of the region out-  
8           side an attainment or competitive county, the  
9           Authority may waive the application of the  
10          funding prohibition under paragraph (1) and  
11          the funding limitation under paragraph (2)  
12          to—

13                   (i) a multicounty project that includes  
14                   participation by an attainment or competi-  
15                   tive county; or

16                   (ii) any other type of project.

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

20                   (A) by the most recent Federal data avail-  
21                   able; or

22                   (B) if no recent Federal data are available,  
23                   by the most recent data available through the  
24                   government of the State in which the isolated  
25                   area of distress is located.

1 **SEC. 210. DEVELOPMENT PLANNING PROCESS.**

2 (a) STATE DEVELOPMENT PLAN.—In accordance  
3 with policies established by the Authority, each State  
4 member shall submit an annual development plan for the  
5 area of the region represented by the State member to  
6 assist the Authority in determining funding priorities  
7 under section 205(b).

8 (b) CONSULTATION WITH INTERESTED PARTIES.—  
9 In carrying out the development planning process (includ-  
10 ing the selection of programs and projects for assistance),  
11 a State shall—

12 (1) consult with—

13 (A) local development districts; and

14 (B) local units of government;

15 (2) take into consideration the goals, objectives,  
16 priorities, and recommendations of the entities de-  
17 scribed in paragraph (1); and

18 (3) solicit input on and take into consideration  
19 the potential impact of the State development plan  
20 on the binational region.

21 (c) PUBLIC PARTICIPATION.—

22 (1) IN GENERAL.—The Authority and applica-  
23 ble State and local development districts shall en-  
24 courage and assist, to the maximum extent prac-  
25 ticable, public participation in the development, revi-

1 sion, and implementation of all plans and programs  
2 under this Act.

3 (2) REGULATIONS.—The Authority shall de-  
4 velop guidelines for providing public participation  
5 described in paragraph (1), including public hear-  
6 ings.

7 (d) REGIONAL DEVELOPMENT PLAN.—The Author-  
8 ity shall prepare an annual regional development plan  
9 that—

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

12 (2) takes into account—

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

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

17 (3) establishes 5-year goals for the development  
18 of the region;

19 (4) identifies and recommends to the States—

20 (A) potential multistate or multicounty  
21 projects that further the goals for the region;

22 and

23 (B) potential development projects for the  
24 binational region; and



1           (5) identifies and recommends to the Authority  
2           for funding demonstration projects under section  
3           207.

## 4           **TITLE III—ADMINISTRATION**

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

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

12                 (1) the relationship of the project or class of  
13                 projects to overall regional development;

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

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

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

1           (5) the prospects that the project for which as-  
2           sistance is sought will improve, on a continuing rath-  
3           er than a temporary basis, the opportunities for em-  
4           ployment, the average level of income, or the eco-  
5           nomic development of the area to be served by the  
6           project; and

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

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

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

1 **SEC. 302. APPROVAL OF DEVELOPMENT PLANS AND**  
2 **PROJECTS.**

3 (a) **IN GENERAL.**—A State or regional development  
4 plan or any multistate subregional plan that is proposed  
5 for development under this Act shall be reviewed by the  
6 Authority.

7 (b) **EVALUATION BY STATE MEMBER.**—An applica-  
8 tion for a grant or any other assistance for a project under  
9 this Act shall be made through and evaluated for approval  
10 by the State member of the Authority representing the  
11 applicant.

12 (c) **CERTIFICATION.**—An application for a grant or  
13 other assistance for a project shall be approved only on  
14 certification by the State member that the application for  
15 the project—

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

18 (2) meets applicable criteria under section 301;

19 (3) provides adequate assurance that the pro-  
20 posed project will be properly administered, oper-  
21 ated, and maintained; and

22 (4) otherwise meets the requirements of this  
23 Act.

24 (d) **VOTES FOR DECISIONS.**—On certification by a  
25 State member of the Authority of an application for a  
26 grant or other assistance for a specific project under this

1 section, an affirmative vote of the Authority under section  
2 101(d) shall be required for approval of the application.

3 **SEC. 303. CONSENT OF STATES.**

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

7 **SEC. 304. RECORDS.**

8 (a) RECORDS OF THE AUTHORITY.—

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

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

17 (b) RECORDS OF RECIPIENTS OF FEDERAL ASSIST-  
18 ANCE.—

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

1           (2) AVAILABILITY.—All records required under  
2 paragraph (1) shall be available for audit by the  
3 Comptroller General of the United States and the  
4 Authority (including authorized representatives of  
5 the Comptroller General and the Authority).

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

9 **SEC. 305. ANNUAL REPORT.**

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

14          (b) CONTENTS.—

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

16           (A) an evaluation of the progress of the  
17 Authority—

18           (i) in meeting the goals set forth in  
19 the regional development plan and the  
20 State development plans; and

21           (ii) in working with other Federal  
22 agencies and the border programs adminis-  
23 tered by the Federal agencies;

24           (B) examples of notable projects in each  
25 State;

1 (C) a description of all demonstration  
2 projects funded under section 306(b) during the  
3 fiscal year preceding submission of the report;  
4 and

5 (D) any policy recommendations approved  
6 by the Authority.

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

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

13 (B) if the Authority determines that a loan  
14 fund is necessary—

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

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

20 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

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

24 (1) \$50,000,000 for fiscal year 2009;

25 (2) \$75,000,000 for fiscal year 2010;

- 1           (3) \$90,000,000 for fiscal year 2011;  
2           (4) \$92,000,000 for fiscal year 2012; and  
3           (5) \$94,000,000 for fiscal year 2013.

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

8 **SEC. 307. TERMINATION OF AUTHORITY.**

9           The authority provided by this Act terminates effec-  
10 tive October 1, 2013.

○