

108TH CONGRESS
1ST SESSION

S. 458

To establish the Southwest Regional Border Authority.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2003

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

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 be-
6 tween communities in the region and commu-
7 nities outside the region; and

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

10 (6) it has been difficult for displaced workers in
11 the region to find employment because many work-
12 ers—

13 (A) have limited English language pro-
14 ficiency; and

15 (B) lack adequate English language and
16 job training;

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

21 (8) many of the problems that exist in the re-
22 gion could be solved or ameliorated by technology
23 that would contribute to economic development in
24 the region;

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

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

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

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

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

23 (2) to provide funding to communities in the re-
24 gion to stimulate and foster infrastructure develop-
25 ment, technology development, community develop-

1 ment and entrepreneurship, and education and
2 workforce development in the region;

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

7 (4) to empower the people of the region through
8 the use of local development districts and State and
9 regional development plans that reflect State and
10 local priorities.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

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

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

20 (3) **BINATIONAL REGION.**—The term “bina-
21 tional region” means the area in the United States
22 and Mexico that is within 150 miles of the inter-
23 national border between the United States and Mex-
24 ico.

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

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

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

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

13 (D) consultation on strategic planning,
14 marketing, or advertising.

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

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

21 (A)(i) has a poverty rate that is at least
22 150 percent of the poverty rate of the United
23 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;

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—

9 (aa) elected officials; or

10 (bb) designees or employees of a
 11 general purpose unit of local govern-
 12 ment that have been appointed to rep-
 13 resent the unit of local government;
 14 and

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

21 (B) has not, as certified by the Federal co-
 22 chairperson—

23 (i) inappropriately used Federal grant
 24 funds from any Federal source; or

1 (ii) appointed an officer who, during
 2 the period in which another entity inappro-
 3 priately used Federal grant funds from any
 4 Federal source, was an officer of the other
 5 entity.

6 (12) REGION.—The term “region” means—

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

10 (B) the counties of Imperial, Los Angeles,
 11 Orange, Riverside, San Bernardino, San Diego,
 12 and Ventura in the State of California;

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

17 (D) the counties of Atascosa, Bandera,
 18 Bee, Bexar, Brewster, Brooks, Cameron, Coke,
 19 Concho, Crane, Crockett, Culberson, Dimmit,
 20 Duval, Ector, Edwards, El Paso, Frio, Gil-
 21 lespie, Glasscock, Hidalgo, Hudspeth, Irion,
 22 Jeff Davis, Jim Hogg, Jim Wells, Karnes, Ken-
 23 dall, Kenedy, Kerr, Kimble, Kinney, Kleberg,
 24 La Salle, Live Oak, Loving, Mason, Maverick,
 25 McMullen, Medina, Menard, Midland, Nueces,

1 Pecos, Presidio, Reagan, Real, Reeves, San
2 Patricio, Shleicher, Sutton, Starr, Sterling,
3 Terrell, Tom Green, Upton, Uvalde, Val Verde,
4 Ward, Webb, Willacy, Wilson, Winkler, Zapata,
5 and Zavala in the State of Texas.

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

10 **TITLE I—SOUTHWEST REGIONAL** 11 **BORDER AUTHORITY**

12 **SEC. 101. MEMBERSHIP AND VOTING.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—There is established the
15 Southwest Regional Border Authority.

16 (2) COMPOSITION.—The Authority shall be
17 composed of—

18 (A) a Federal member, to be appointed by
19 the President, by and with the advice and con-
20 sent of the Senate; and

21 (B) State members, who shall consist of
22 the Governor (or a designee of the Governor) of
23 each State in the region that elects to partici-
24 pate in the Authority.

1 (3) COCHAIRPERSONS.—The Authority shall be
2 headed by—

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

4 (i) as the Federal cochairperson; and

5 (ii) as a liaison between the Federal
6 Government and the Authority; and

7 (B) a State cochairperson, who shall—

8 (i) be a Governor of a State described
9 in paragraph (2)(B);

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

12 (iii) serve only 1 term during any 4
13 year period.

14 (b) ALTERNATE MEMBERS.—

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

18 (A) a resident of that State; and

19 (B) appointed by the Governor of the
20 State, from among the members of the cabinet
21 or personal staff of the Governor.

22 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

23 The President shall appoint an alternate Federal co-
24 chairperson.

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

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

11 (A) a member of the Authority; or

12 (B) entitled to vote at meetings of the Au-
13 thority.

14 (c) MEETINGS.—

15 (1) INITIAL MEETING.—The initial meeting of
16 the Authority shall be conducted not later than the
17 date that is the earlier of—

18 (A) 180 days after the date of enactment
19 of this Act; or

20 (B) 60 days after the date on which the
21 Federal cochairperson is appointed.

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

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

5 (d) VOTING.—

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

12 (2) QUORUM.—

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

15 (B) REQUIRED FOR POLICY DECISION.—A
16 quorum of State members shall be required to
17 be present for the Authority to make any policy
18 decision, including—

19 (i) a modification or revision of a pol-
20 icy decision of the Authority;

21 (ii) approval of a State or regional de-
22 velopment plan; and

23 (iii) any allocation of funds among the
24 States.

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

3 (A) a responsibility of the Authority; and

4 (B) conducted in accordance with section
5 302.

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

11 **SEC. 102. DUTIES AND POWERS.**

12 (a) DUTIES.—The Authority shall—

13 (1) develop comprehensive and coordinated
14 plans and programs to establish priorities and ap-
15 prove grants for the economic development of the re-
16 gion, giving due consideration to other Federal,
17 State, and local planning and development activities
18 in the region;

19 (2) conduct and sponsor investigations, re-
20 search, and studies, including an inventory and anal-
21 ysis of the resources of the region, using, in part,
22 the materials compiled by the Interagency Task
23 Force on the Economic Development of the South-
24 west Border established by Executive Order No.
25 13122 (64 Fed. Reg. 29201);

1 (3) sponsor demonstration projects under sec-
2 tion 207;

3 (4)(A) enhance the capacity of, and provide
4 support for, local development districts in the region;
5 or

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

10 (5) review and study Federal, State, and local
11 public and private programs and, as appropriate,
12 recommend modifications or additions to increase
13 the effectiveness of the programs;

14 (6) formulate and recommend, as appropriate,
15 interstate and international compacts and other
16 forms of interstate and international cooperation;

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

19 (8) provide a forum for consideration of the
20 problems of the region and any proposed solutions to
21 those problems;

22 (9) establish and use, as appropriate, citizens,
23 special advisory counsels, and public conferences;
24 and

1 (10) provide a coordinating mechanism to avoid
2 duplication of efforts among the border programs of
3 the Federal agencies and the programs established
4 under the North American Free Trade Agreement
5 entered into by the United States, Mexico, and Can-
6 ada on December 17, 1992.

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

9 (1) hold such hearings, sit and act at such
10 times and places, take such testimony, receive such
11 evidence, and print or otherwise reproduce and dis-
12 tribute a description of the proceedings of, and re-
13 ports on actions by, the Authority as the Authority
14 considers appropriate;

15 (2) request from any Federal, State, or local
16 agency such information as may be available to or
17 procurable by the agency that may be of use to the
18 Authority in carrying out the duties of the Author-
19 ity;

20 (3) maintain an accurate and complete record
21 of all transactions and activities of the Authority, to
22 be available for audit and examination by the Comp-
23 troller General of the United States;

1 (4) adopt, amend, and repeal bylaws and rules
2 governing the conduct of business and the perform-
3 ance of duties of the Authority;

4 (5) request the head of any Federal agency to
5 detail to the Authority, for a specified period of
6 time, such personnel as the Authority requires to
7 carry out duties of the Authority, each such detail
8 to be without loss of seniority, pay, or other em-
9 ployee status;

10 (6) request the head of any State department
11 or agency or local government to detail to the Au-
12 thority, for a specified period of time, such personnel
13 as the Authority requires to carry out the duties of
14 the Authority, each such detail to be without loss of
15 seniority, pay, or other employee status;

16 (7) make recommendations to the President re-
17 garding—

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

20 (B) additional Federal, State, and local
21 legislation that may be necessary to further the
22 purposes of this Act;

23 (8) provide for coverage of Authority employees
24 in a suitable retirement and employee benefit system
25 by—

1 (A) making arrangements or entering into
2 contracts with any participating State govern-
3 ment; or

4 (B) otherwise providing retirement and
5 other employee benefit coverage;

6 (9) accept, use, and dispose of gifts or dona-
7 tions of services or real, personal, tangible, or intan-
8 gible property;

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

13 (11) establish and maintain—

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

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

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

1 (c) FEDERAL AGENCY COOPERATION.—A Federal
2 agency shall—

3 (1) cooperate with the Authority; and

4 (2) provide, on request of the Federal cochair-
5 person, appropriate assistance in carrying out this
6 Act, in accordance with applicable Federal laws (in-
7 cluding regulations).

8 (d) ADMINISTRATIVE EXPENSES.—

9 (1) IN GENERAL.—

10 (A) ADMINISTRATIVE EXPENSES.—Subject
11 to paragraph (2), administrative expenses of the
12 Authority shall be paid—

13 (i) by the Federal Government, in an
14 amount equal to 60 percent of the admin-
15 istrative expenses; and

16 (ii) by the States in the region that
17 elect to participate in the Authority, in an
18 amount equal to 40 percent of the admin-
19 istrative expenses.

20 (B) EXPENSES OF FEDERAL CHAIR-
21 PERSON.—All expenses of the Federal cochair-
22 person, including expenses of the alternate and
23 staff of the Federal cochairperson, shall be paid
24 by the Federal Government.

25 (2) STATE SHARE.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (C), the share of administrative expenses
3 of the Authority to be paid by each State shall
4 be determined by a unanimous vote of the State
5 members of the Authority.

6 (B) NO FEDERAL PARTICIPATION.—The
7 Federal cochairperson shall not participate or
8 vote in any decision under subparagraph (A).

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

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

19 (i) no assistance under this Act shall
20 be provided to the State (including assist-
21 ance to a political subdivision or a resident
22 of the State) for any project not approved
23 as of the date of the commencement of the
24 delinquency; and

1 (ii) no member of the Authority from
2 the State shall participate or vote in any
3 action by the Authority.

4 (E) EFFECT ON ASSISTANCE.—A State’s
5 share of administrative expenses of the Author-
6 ity under this subsection shall not be taken into
7 consideration in determining the amount of as-
8 sistance provided to the State under title II.

9 **SEC. 103. AUTHORITY PERSONNEL MATTERS.**

10 (a) COMPENSATION OF MEMBERS.—

11 (1) FEDERAL COCHAIRPERSON.—The Federal
12 cochairperson shall be compensated by the Federal
13 Government at the annual rate of basic pay pre-
14 scribed for level III of the Executive Schedule in
15 subchapter II of chapter 53 of title 5, United States
16 Code.

17 (2) ALTERNATE FEDERAL COCHAIRPERSON.—
18 The alternate Federal cochairperson—

19 (A) shall be compensated by the Federal
20 Government at the annual rate of basic pay
21 prescribed for level V of the Executive Schedule
22 described in paragraph (1); and

23 (B) when not actively serving as an alter-
24 nate for the Federal cochairperson, shall per-

1 form such functions and duties as are delegated
2 by the Federal cochairperson.

3 (3) STATE MEMBERS AND ALTERNATES.—

4 (A) IN GENERAL.—A State shall com-
5 pensate each member and alternate member
6 representing the State on the Authority at the
7 rate established by State law.

8 (B) NO ADDITIONAL COMPENSATION.—No
9 State member or alternate member shall receive
10 any salary, or any contribution to or sup-
11 plementation of salary, from any source other
12 than the State for services provided by the
13 member or alternate member to the Authority.

14 (b) DETAILED EMPLOYEES.—

15 (1) IN GENERAL.—No person detailed to serve
16 the Authority under section 102(b)(6) shall receive
17 any salary, or any contribution to or supplemen-
18 tation of salary, for services provided to the Author-
19 ity from—

20 (A) any source other than the State, local,
21 or intergovernmental department or agency
22 from which the person was detailed; or

23 (B) the Authority.

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

4 (c) ADDITIONAL PERSONNEL.—

5 (1) COMPENSATION.—

6 (A) IN GENERAL.—The Authority may ap-
7 point and fix the compensation of an executive
8 director and such other personnel as are nec-
9 essary to enable the Authority to carry out the
10 duties of the Authority.

11 (B) EXCEPTION.—Compensation under
12 subparagraph (A) shall not exceed the max-
13 imum rate of basic pay established for the Sen-
14 ior Executive Service under section 5382 of title
15 5, United States Code, including any applicable
16 locality-based comparability payment that may
17 be authorized under section 5304(h)(2)(C) of
18 that title.

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

21 (A) carrying out the administrative duties
22 of the Authority;

23 (B) directing the Authority staff; and

24 (C) carrying out such other duties as the
25 Authority may assign.

1 (3) NO FEDERAL EMPLOYEE STATUS.—No
2 member, alternate, officer, or employee of the Au-
3 thority (other than the Federal cochairperson, the
4 alternate Federal cochairperson, staff of the Federal
5 cochairperson, and any Federal employee detailed to
6 the Authority under subsection (b)) shall be consid-
7 ered to be a Federal employee for any purpose.

8 (d) CONFLICTS OF INTEREST.—

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

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

24 (A) immediately advises the Authority of
25 the nature and circumstances of the proceeding,

1 application, request for a ruling or other deter-
2 mination, contract, claim, controversy, or other
3 particular matter presenting a potential conflict
4 of interest;

5 (B) makes full disclosure of the financial
6 interest; and

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

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

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

24 (f) APPLICABLE LABOR STANDARDS.—

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

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

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

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

20 The Authority may approve grants to States, local
21 governments, Indian tribes, and public and nonprofit orga-
22 nizations in the region for projects, approved in accord-
23 ance with section 302, to develop and improve the trans-
24 portation, water and wastewater, public health, and tele-
25 communications infrastructure of the region.

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

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

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

16 **SEC. 203. COMMUNITY DEVELOPMENT AND ENTREPRE-
17 NEURSHIP.**

18 The Authority may approve grants to States, local
19 governments, Indian tribes, small businesses, and public
20 or nonprofit entities for projects, approved in accordance
21 with section 302—

- 22 (1) to create dynamic local economies by—
- 23 (A) recruiting businesses to the region;
- 24 and
- 25 (B) increasing and expanding international
26 trade to other countries;

1 (2) to foster entrepreneurship by—

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

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

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

14 (D)(i) developing a working network of
15 business incubators; and

16 (ii) supporting entities that provide busi-
17 ness incubator services; and

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

20 (A) the identification and training of
21 emerging leaders;

22 (B) the encouragement of citizen participa-
23 tion; and

24 (C) the provision of assistance for strategic
25 planning and organization development.

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

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

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

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

15 **SEC. 205. FUNDING.**

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

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

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

23 (3) in combination with funds from any other
24 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.—

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

13 (2) FUNDING FOR BORDER COUNTIES.—For
14 each fiscal year, the Authority shall allocate at least
15 60 percent of the amounts made available under sec-
16 tion 306 for programs and projects designed to serve
17 the needs of—

18 (A) distressed counties located along the
19 international border between the United States
20 and Mexico; and

21 (B) isolated areas of distress located with-
22 in counties along the international border be-
23 tween the United States and Mexico.

24 (c) BINATIONAL PROJECTS.—

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

5 (2) FUNDING OF BINATIONAL PROJECTS.—The
6 Authority may award funding to a project in which
7 an entity that is incorporated outside the United
8 States participates if, for any fiscal year, the entity
9 matches with an equal amount, in cash or in-kind,
10 the assistance received under this Act for the fiscal
11 year.

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

13 (a) FINDING.—Congress finds that certain States
14 and local communities of the region, including local devel-
15 opment districts, may be unable to take maximum advan-
16 tage of Federal grant programs for which the States and
17 communities are eligible because—

18 (1) they lack the economic resources to provide
19 the required matching share; or

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

23 (b) FEDERAL GRANT PROGRAM FUNDING.—Not-
24 withstanding any provision of law limiting the Federal
25 share, the areas eligible for assistance, or the authoriza-

1 tions of appropriations, under any Federal grant program,
2 and in accordance with subsection (c), the Authority, with
3 the approval of the Federal cochairperson and with respect
4 to a project to be carried out in the region, may—

5 (1) increase the Federal share of the costs of a
6 project under any Federal grant program to not
7 more than 90 percent (except as provided in section
8 209(b)); and

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

12 (c) CERTIFICATIONS.—

13 (1) IN GENERAL.—In the case of any project
14 for which all or any portion of the basic Federal
15 share of the costs of the project is proposed to be
16 paid under this section, no Federal contribution
17 shall be made until the Federal official admin-
18 istering the Federal law that authorizes the Federal
19 grant program certifies that the project—

20 (A) meets (except as provided in subsection

21 (b)) the applicable requirements of the applica-
22 ble Federal grant program; and

23 (B) could be approved for Federal con-
24 tribution under the Federal grant program if

1 funds were available under the law for the
2 project.

3 (2) CERTIFICATION BY AUTHORITY.—

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

8 (i) shall be controlling; and

9 (ii) shall be accepted by the Federal
10 agencies.

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

21 **SEC. 207. DEMONSTRATION PROJECTS.**

22 (a) IN GENERAL.—For each fiscal year, the Author-
23 ity may approve not more than 10 demonstration projects
24 to carry out activities described in sections 201 through

1 204, of which not more than 3 shall be carried out in any
2 1 State.

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

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

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

9 **SEC. 208. LOCAL DEVELOPMENT DISTRICTS; CERTIFI-**
10 **CATION AND ADMINISTRATIVE EXPENSES.**

11 (a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

12 (1) IN GENERAL.—The Authority shall make
13 grants to local development districts to pay the ad-
14 ministrative expenses of the local development dis-
15 tricts.

16 (2) CONDITIONS FOR GRANTS.—

17 (A) MAXIMUM AMOUNT.—The amount of
18 any grant awarded under paragraph (1) shall
19 not exceed 80 percent of the administrative ex-
20 penses of the local development district receiv-
21 ing the grant.

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

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

5 (b) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—

6 A local development district shall—

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

9 (2) assist the Authority in carrying out out-
 10 reach activities for local governments, community
 11 development groups, the business community, and
 12 the public;

13 (3) serve as a liaison between State and local
 14 governments, nonprofit organizations (including
 15 community-based groups and educational institu-
 16 tions), the business community, and citizens; and

17 (4) assist the individuals and entities described
 18 in paragraph (3) in identifying, assessing, and facili-
 19 tating projects and programs to promote the eco-
 20 nomic development of the region.

21 **SEC. 209. DISTRESSED COUNTIES AND AREAS AND ECO-**
 22 **NOMICALLY STRONG COUNTIES.**

23 (a) DESIGNATIONS.—At the initial meeting of the
 24 Authority and annually thereafter, the Authority, in ac-

1 cordance with such criteria as the Authority may establish,
2 shall designate—

- 3 (1) distressed counties;
- 4 (2) economically strong counties;
- 5 (3) attainment counties;
- 6 (4) competitive counties; and
- 7 (5) isolated areas of distress.

8 (b) DISTRESSED COUNTIES.—

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

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

20 (c) ECONOMICALLY STRONG COUNTIES.—

21 (1) ATTAINMENT COUNTIES.—Except as pro-
22 vided in paragraph (3), the Authority shall not pro-
23 vide funds for a project located in a county des-
24 ignated as an attainment county under subsection
25 (a)(3).

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

6 (3) EXCEPTIONS.—

7 (A) IN GENERAL.—The funding prohibi-
8 tion under paragraph (1) and the funding limi-
9 tation under paragraph (2) shall not apply to
10 grants to fund the administrative expenses of
11 local development districts under section
12 208(a).

13 (B) MULTICOUNTY PROJECTS.—If the Au-
14 thority determines that a project could bring
15 significant benefits to areas of the region out-
16 side an attainment or competitive county, the
17 Authority may waive the application of the
18 funding prohibition under paragraph (1) and
19 the funding limitation under paragraph (2)
20 to—

21 (i) a multicounty project that includes
22 participation by an attainment or competi-
23 tive county; or

24 (ii) any other type of project.

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

4 (A) by the most recent Federal data avail-
5 able; or

6 (B) if no recent Federal data are available,
7 by the most recent data available through the
8 government of the State in which the isolated
9 area of distress is located.

10 **SEC. 210. DEVELOPMENT PLANNING PROCESS.**

11 (a) STATE DEVELOPMENT PLAN.—In accordance
12 with policies established by the Authority, each State
13 member shall submit an annual development plan for the
14 area of the region represented by the State member to
15 assist the Authority in determining funding priorities
16 under section 205(b).

17 (b) CONSULTATION WITH INTERESTED PARTIES.—
18 In carrying out the development planning process (includ-
19 ing the selection of programs and projects for assistance),
20 a State shall—

21 (1) consult with—

22 (A) local development districts; and

23 (B) local units of government;

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

4 (3) solicit input on and take into consideration
5 the potential impact of the State development plan
6 on the binational region.

7 (c) PUBLIC PARTICIPATION.—

8 (1) IN GENERAL.—The Authority and applica-
9 ble State and local development districts shall en-
10 courage and assist, to the maximum extent prac-
11 ticable, public participation in the development, revi-
12 sion, and implementation of all plans and programs
13 under this Act.

14 (2) REGULATIONS.—The Authority shall de-
15 velop guidelines for providing public participation
16 described in paragraph (1), including public hear-
17 ings.

18 (d) REGIONAL DEVELOPMENT PLAN.—The Author-
19 ity shall prepare an annual regional development plan
20 that—

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

23 (2) takes into account—

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

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

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

5 (4) identifies and recommends to the States—

6 (A) potential multistate or multicounty
7 projects that further the goals for the region;
8 and

9 (B) potential development projects for the
10 binational region; and

11 (5) identifies and recommends to the Authority
12 for funding demonstration projects under section
13 207.

14 **TITLE III—ADMINISTRATION**

15 **SEC. 301. PROGRAM DEVELOPMENT CRITERIA.**

16 (a) IN GENERAL.—In considering programs and
17 projects to be provided assistance under this Act, and in
18 establishing a priority ranking of the requests for assist-
19 ance provided to the Authority, the Authority shall follow
20 procedures that ensure, to the maximum extent prac-
21 ticable, consideration of—

22 (1) the relationship of the project or class of
23 projects to overall regional development;

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

1 (3) the financial resources available to the ap-
2 plicants for assistance seeking to carry out the
3 project, with emphasis on ensuring that projects are
4 adequately financed to maximize the probability of
5 successful economic development;

6 (4) the socioeconomic importance of the project
7 or class of projects in relation to other projects or
8 classes of projects that may be in competition for
9 the same funds;

10 (5) the prospects that the project for which as-
11 sistance is sought will improve, on a continuing rath-
12 er than a temporary basis, the opportunities for em-
13 ployment, the average level of income, or the eco-
14 nomic development of the area to be served by the
15 project; and

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

20 (b) NO RELOCATION ASSISTANCE.—No financial as-
21 sistance authorized by this Act shall be used to assist a
22 person or entity in relocating from 1 area to another, ex-
23 cept that financial assistance may be used as otherwise
24 authorized by this Act to attract businesses from outside
25 the region to the region.

1 (c) MAINTENANCE OF EFFORT.—Funds may be pro-
2 vided for a program or project in a State under this Act
3 only if the Authority determines that the level of Federal
4 or State financial assistance provided under a law other
5 than this Act, for the same type of program or project
6 in the same area of the State within the region, will not
7 be reduced as a result of funds made available by this Act.

8 **SEC. 302. APPROVAL OF DEVELOPMENT PLANS AND**
9 **PROJECTS.**

10 (a) IN GENERAL.—A State or regional development
11 plan or any multistate subregional plan that is proposed
12 for development under this Act shall be reviewed by the
13 Authority.

14 (b) EVALUATION BY STATE MEMBER.—An applica-
15 tion for a grant or any other assistance for a project under
16 this Act shall be made through and evaluated for approval
17 by the State member of the Authority representing the
18 applicant.

19 (c) CERTIFICATION.—An application for a grant or
20 other assistance for a project shall be approved only on
21 certification by the State member that the application for
22 the project—

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

25 (2) meets applicable criteria under section 301;

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

4 (4) otherwise meets the requirements of this
5 Act.

6 (d) VOTES FOR DECISIONS.—On certification by a
7 State member of the Authority of an application for a
8 grant or other assistance for a specific project under this
9 section, an affirmative vote of the Authority under section
10 101(d) shall be required for approval of the application.

11 **SEC. 303. CONSENT OF STATES.**

12 Nothing in this Act requires any State to engage in
13 or accept any program under this Act without the consent
14 of the State.

15 **SEC. 304. RECORDS.**

16 (a) RECORDS OF THE AUTHORITY.—

17 (1) IN GENERAL.—The Authority shall main-
18 tain accurate and complete records of all trans-
19 actions and activities of the Authority.

20 (2) AVAILABILITY.—All records of the Author-
21 ity shall be available for audit and examination by
22 the Comptroller General of the United States (in-
23 cluding authorized representatives of the Comp-
24 troller General).

1 (b) RECORDS OF RECIPIENTS OF FEDERAL ASSIST-
2 ANCE.—

3 (1) IN GENERAL.—A recipient of Federal funds
4 under this Act shall, as required by the Authority,
5 maintain accurate and complete records of trans-
6 actions and activities financed with Federal funds
7 and report to the Authority on the transactions and
8 activities.

9 (2) AVAILABILITY.—All records required under
10 paragraph (1) shall be available for audit by the
11 Comptroller General of the United States and the
12 Authority (including authorized representatives of
13 the Comptroller General and the Authority).

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

17 **SEC. 305. ANNUAL REPORT.**

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

22 (b) CONTENTS.—

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

24 (A) an evaluation of the progress of the
25 Authority—

1 (i) in meeting the goals set forth in
2 the regional development plan and the
3 State development plans; and

4 (ii) in working with other Federal
5 agencies and the border programs adminis-
6 tered by the Federal agencies;

7 (B) examples of notable projects in each
8 State;

9 (C) a description of all demonstration
10 projects funded under section 306(b) during the
11 fiscal year preceding submission of the report;
12 and

13 (D) any policy recommendations approved
14 by the Authority.

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

18 (A) a determination as to whether the cre-
19 ation of a loan fund to be administered by the
20 Authority is necessary; and

21 (B) if the Authority determines that a loan
22 fund is necessary—

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

1 (ii) a description of the eligibility cri-
2 teria and performance requirements for the
3 loans.

4 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

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

8 (1) \$50,000,000 for fiscal year 2004;

9 (2) \$75,000,000 for fiscal year 2005;

10 (3) \$90,000,000 for fiscal year 2006;

11 (4) \$92,000,000 for fiscal year 2007; and

12 (5) \$94,000,000 for fiscal year 2008.

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

17 **SEC. 307. TERMINATION OF AUTHORITY.**

18 The authority provided by this Act terminates effec-
19 tive October 1, 2008.

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