

107TH CONGRESS
2^D SESSION

H. R. 4847

To establish the Southwest Regional Border Authority.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2002

Mr. REYES (for himself, Mr. HINOJOSA, Mr. ORTIZ, Mr. FILNER, Mr. RODRIGUEZ, and Mr. PASTOR) 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

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

1 the income in the region is distributed through wel-
2 fare programs, retirement programs, and unemploy-
3 ment payments;

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

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

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

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

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

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

24 (9) Congress has established several regional
25 economic development commissions, including the

1 Appalachian Regional Commission, the Delta Re-
2 gional Authority, and the Denali Commission, to im-
3 prove the economies of those areas of the United
4 States that experience the greatest economic dis-
5 tress; and

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

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

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

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

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

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

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

3 **SEC. 3. DEFINITIONS.**

4 In this Act, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (A) acquiring or developing land;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) ESTABLISHMENT.—

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

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

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

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

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

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

25 (i) as the Federal cochairperson; and

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

3 (B) a State cochairperson, who shall—

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

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

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

10 (b) ALTERNATE MEMBERS.—

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

14 (A) a resident of that State; and

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

18 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

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

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

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

6 (A) a member of the Authority; or

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

9 (c) MEETINGS.—

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

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

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

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

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

24 (d) VOTING.—

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

7 (2) QUORUM.—

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

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

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

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

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

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

22 (A) a responsibility of the Authority; and

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

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

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

7 (a) DUTIES.—The Authority shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) establish and maintain—

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

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

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

10 (1) cooperate with the Authority; and

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

15 (d) ADMINISTRATIVE EXPENSES.—

16 (1) IN GENERAL.—

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

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

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

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

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

8 (2) STATE SHARE.—

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

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

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

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

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

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

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

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

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

18 (a) COMPENSATION OF MEMBERS.—

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

1 (2) ALTERNATE FEDERAL COCHAIRPERSON.—

2 The alternate Federal cochairperson—

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

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

11 (3) STATE MEMBERS AND ALTERNATES.—

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

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

22 (b) DETAILED EMPLOYEES.—

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

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

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

6 (B) the Authority.

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

10 (c) ADDITIONAL PERSONNEL.—

11 (1) COMPENSATION.—

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

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

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

3 (A) shall be a Federal employee; and

4 (B) shall be responsible for—

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

7 (ii) directing the Authority staff; and

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

10 (d) CONFLICTS OF INTEREST.—

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

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

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

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

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

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

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

1 (f) APPLICABLE LABOR STANDARDS.—

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

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

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

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

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

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

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

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

8 (1) water quality;

9 (2) water quantity;

10 (3) pollution;

11 (4) transportation;

12 (5) energy consumption;

13 (6) public health;

14 (7) border and port security; and

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

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

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

23 (1) to create dynamic local economies by—

24 (A) recruiting businesses to the region;

25 and

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

3 (2) to foster entrepreneurship by—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **SEC. 205. FUNDING.**

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

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

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

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

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

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

6 (C) the North American Development
7 Bank.

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

12 (c) BINATIONAL PROJECTS.—

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

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

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

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

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

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

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

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

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

26 (c) CERTIFICATIONS.—

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

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

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

15 (2) CERTIFICATION BY AUTHORITY.—

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

20 (i) shall be controlling; and

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

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

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

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

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

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

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

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

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

22 (a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

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

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

3 (2) CONDITIONS FOR GRANTS.—

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

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

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

17 (b) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—

18 A local development district shall—

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

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

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

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

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

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

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

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

18 (b) DISTRESSED COUNTIES.—

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

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

6 (c) ECONOMICALLY STRONG COUNTIES.—

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

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

17 (3) EXCEPTIONS.—

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

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

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

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

10 (ii) any other type of project.

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

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

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

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

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

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

3 (b) CONSULTATION WITH INTERESTED PARTIES.—

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

7 (1) consult with—

8 (A) local development districts; and

9 (B) local units of government;

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

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

16 (c) PUBLIC PARTICIPATION.—

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

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

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

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

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

8 (2) takes into account—

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

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

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

15 (4) identifies and recommends to the States—

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

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

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

1 **TITLE III—ADMINISTRATION**

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

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

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

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

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

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

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

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

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

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

12 (2) meets applicable criteria under section 301;

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

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

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

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

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

5 **SEC. 304. RECORDS.**

6 (a) RECORDS OF THE AUTHORITY.—

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

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

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

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

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

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

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

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

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

11 (b) CONTENTS.—

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

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

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

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

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

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

1 fiscal year preceding submission of the report;
2 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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