

***In the Senate of the United States,***

*March 12, 2004.*

*Resolved*, That the bill from the House of Representatives (H.R. 254) entitled “An Act to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION. 1. AUTHORITY TO AGREE TO CERTAIN AMEND-***  
2 ***MENTS TO THE BORDER ENVIRONMENT CO-***  
3 ***OPERATION AGREEMENT; GRANT AUTHORITY.***

4 *(a) AMENDMENT AUTHORITY.—Part 2 of subtitle D of*  
5 *title V of Public Law 103–182 (22 U.S.C. 290m–290m-3)*  
6 *is amended by adding at the end the following:*

1 **“SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMEND-**  
2 **MENTS TO THE BORDER ENVIRONMENT CO-**  
3 **OPERATION AGREEMENT.**

4 *“The President may agree to amendments to the Co-*  
5 *operation Agreement that—*

6 *“(1) enable the Bank to make grants and non-*  
7 *market rate loans out of its paid-in capital resources*  
8 *with the approval of its Board; and*

9 *“(2) amend the definition of ‘border region’ to*  
10 *include the area in the United States that is within*  
11 *100 kilometers of the international boundary between*  
12 *the United States and Mexico, and the area in Mexico*  
13 *that is within 300 kilometers of the international*  
14 *boundary between the United States and Mexico.”.*

15 *(b) GRANT AUTHORITY.—Part 2 of subtitle D of title*  
16 *V of Public Law 103–182 (22 U.S.C. 290m–290m–3), as*  
17 *amended by subsection (a), is amended by adding at the*  
18 *end the following:*

19 **“SEC. 546. GRANTS OUT OF PAID-IN CAPITAL RESOURCES.**

20 *“(a) IN GENERAL.—The President shall instruct the*  
21 *United States Federal Government representatives on the*  
22 *Board of Directors of the North American Development*  
23 *Bank to oppose any proposal where grants out of the Bank’s*  
24 *paid-in capital resources, except for grants from paid-in*  
25 *capital authorized for the community adjustment and in-*

1 *vestment program under the Bank's charter of 1993,*  
2 *would—*

3           “(1) *be made to a project that is not being fi-*  
4 *nanced, in part, by loans; or*

5           “(2) *account for more than 50 percent of the fi-*  
6 *nancing of any individual project.*

7           “(b) *EXCEPTION.—*

8           “(1) *GENERAL RULE.—The requirements of sub-*  
9 *section (a) shall not apply in cases where—*

10           “(A) *the President determines there are ex-*  
11 *ceptional economic circumstances for making the*  
12 *grant and consults with the Committee on For-*  
13 *ign Relations of the Senate and the Committee*  
14 *on Financial Services of the House of Represent-*  
15 *atives; or*

16           “(B)(i) *the grant is being made for a*  
17 *project that is so small that obtaining a loan is*  
18 *impractical; and*

19           “(ii) *the grant does not exceed \$250,000.*

20           “(2) *LIMITATION.—Not more than an aggregate*  
21 *of \$5,000,000 in grants may be made under this sub-*  
22 *section.”.*

23           “(c) *CLERICAL AMENDMENT.—Section 1(b) of such pub-*  
24 *lic law is amended in the table of contents by inserting after*  
25 *the item relating to section 544 the following:*

*“Sec. 545. Authority to agree to certain amendments to the Border Environment Cooperation Agreement.*

*“Sec. 546. Grants out of paid-in capital resources.”.*

1 **SEC. 2. ANNUAL REPORT.**

2 *The Secretary of the Treasury shall submit annually*  
3 *to the Committee on Financial Services of the House of Rep-*  
4 *resentatives and the Committee on Foreign Relations of the*  
5 *Senate a written report on the North American Develop-*  
6 *ment Bank, which addresses the following issues:*

7 *(1) The number and description of the projects*  
8 *that the North American Development Bank has ap-*  
9 *proved. The description shall include the level of mar-*  
10 *ket-rate loans, non-market-rate loans, and grants used*  
11 *in an approved project, and a description of whether*  
12 *an approved project is located within 100 kilometers*  
13 *of the international boundary between the United*  
14 *States and Mexico or within 300 kilometers of the*  
15 *international boundary between the United States*  
16 *and Mexico.*

17 *(2) The number and description of the approved*  
18 *projects in which money has been dispersed.*

19 *(3) The number and description of the projects*  
20 *which have been certified by the Border Environment*  
21 *Cooperation Commission, but yet not financed by the*  
22 *North American Development Bank, and the reasons*  
23 *that the projects have not yet been financed.*

1           (4) *The total of the paid-in capital, callable cap-*  
2           *ital, and retained earnings of the North American*  
3           *Development Bank, and the uses of such amounts.*

4           (5) *A description of any efforts and discussions*  
5           *between the United States and Mexican governments*  
6           *to expand the type of projects which the North Amer-*  
7           *ican Development Bank finances beyond environ-*  
8           *mental projects.*

9           (6) *A description of any efforts and discussions*  
10          *between the United States and Mexican governments*  
11          *to improve the effectiveness of the North American De-*  
12          *velopment Bank.*

13          (7) *The number and description of projects au-*  
14          *thorized under the Water Conservation Investment*  
15          *Fund of the North American Development Bank.*

16 **SEC. 3. SENSE OF THE CONGRESS RELATING TO UNITED**  
17                   **STATES SUPPORT FOR NADBANK PROJECTS**  
18                   **WHICH FINANCE WATER CONSERVATION FOR**  
19                   **TEXAS IRRIGATORS AND AGRICULTURAL**  
20                   **PRODUCERS IN THE LOWER RIO GRANDE**  
21                   **RIVER VALLEY.**

22          (a) *FINDINGS.—The Congress finds that—*

23           (1) *Texas irrigators and agricultural producers*  
24           *are suffering enormous hardships in the lower Rio*  
25           *Grande River valley because of Mexico's failure to*

1 *abide by the 1944 Water Treaty entered into by the*  
2 *United States and Mexico;*

3 *(2) over the last 10 years, Mexico has accumu-*  
4 *lated a 1,500,000-acre fee water debt to the United*  
5 *States which has resulted in a very minimal and in-*  
6 *adequate irrigation water supply in Texas;*

7 *(3) recent studies by Texas A&M University*  
8 *show that water savings of 30 percent or more can be*  
9 *achieved by improvements in irrigation system infra-*  
10 *structure such as canal lining and metering;*

11 *(4) on August 20, 2002, the Board of the North*  
12 *American Development Bank agreed to the creation*  
13 *in the Bank of a Water Conservation Investment*  
14 *Fund, as required by Minute 308 to the 1944 Water*  
15 *Treaty, which was an agreement signed by the United*  
16 *States and Mexico on June 28, 2002; and*

17 *(5) the Water Conservation Investment Fund of*  
18 *the North American Development Bank stated that up*  
19 *to \$80,000,000 would be available for grant financing*  
20 *of water conservation projects, which grant funds*  
21 *would be divided equally between the United States*  
22 *and Mexico.*

23 *(b) SENSE OF THE CONGRESS.—It is the sense of the*  
24 *Congress that—*

1           (1) *water conservation projects are eligible for*  
2 *funding from the North American Development Bank*  
3 *under the Agreement Between the Government of the*  
4 *United States of America and the Government of the*  
5 *United Mexican States Concerning the Establishment*  
6 *of a Border Environment Cooperation Commission*  
7 *and a North American Development Bank; and*

8           (2) *the Board of the North American Develop-*  
9 *ment Bank should support qualified water conserva-*  
10 *tion projects which can assist Texas irrigators and*  
11 *agricultural producers in the lower Rio Grande River*  
12 *Valley.*

13 **SEC. 4. SENSE OF THE CONGRESS RELATING TO UNITED**  
14 **STATES SUPPORT FOR NADBANK PROJECTS**  
15 **WHICH FINANCE WATER CONSERVATION IN**  
16 **THE SOUTHERN CALIFORNIA AREA.**

17           *It is the sense of the Congress that the Board of the*  
18 *North American Development Bank should support—*

19           (1) *the development of qualified water conserva-*  
20 *tion projects in southern California and other eligible*  
21 *areas in the 4 United States border States, including*  
22 *the conjunctive use and storage of surface and ground*  
23 *water, delivery system conservation, the re-regulation*  
24 *of reservoirs, improved irrigation practices, waste-*  
25 *water reclamation, regional water management mod-*

1 *eling, operational and optimization studies to im-*  
2 *prove water conservation, and cross-border water ex-*  
3 *changes consistent with treaties; and*

4 *(2) new water supply research and projects along*  
5 *the Mexico border in southern California and other el-*  
6 *igible areas in the 4 United States border States to*  
7 *desalinate ocean seawater and brackish surface and*  
8 *groundwater, and dispose of or manage the brines re-*  
9 *sulting from desalination.*

10 **SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED**  
11 **STATES SUPPORT FOR NADBANK PROJECTS**  
12 **FOR WHICH FINANCE WATER CONSERVATION**  
13 **FOR IRRIGATORS AND AGRICULTURAL PRO-**  
14 **DUCERS IN THE SOUTHWEST UNITED STATES.**

15 *(a) FINDINGS.—The Congress finds as follows:*

16 *(1) Irrigators and agricultural producers are*  
17 *suffering enormous hardships in the southwest United*  
18 *States. The border States of California, Arizona, New*  
19 *Mexico, and Texas are suffering from one of the worst*  
20 *droughts in history. In Arizona, this is the second*  
21 *driest period in recorded history and the worst since*  
22 *1904.*

23 *(2) In spite of decades of water conservation in*  
24 *the southwest United States, irrigated agriculture uses*  
25 *more than 60 percent of surface and ground water.*

1           (3) *The most inadequate water supplies in the*  
2           *United States are in the Southwest, including the*  
3           *lower Colorado River basin and the Great Plains*  
4           *River basins south of the Platte River. In these areas,*  
5           *70 percent of the water taken from the stream is not*  
6           *returned.*

7           (4) *The amount of water being pumped out of*  
8           *groundwater sources in many areas is greater than*  
9           *the amount being replenished, thus depleting the*  
10          *groundwater supply.*

11          (5) *On August 20, 2002, the Board of the North*  
12          *American Development Bank agreed to the creation*  
13          *in the bank of a Water Conservation Investment*  
14          *Fund.*

15          (6) *The Water Conservation Investment Fund of*  
16          *the North American Development Bank stated that up*  
17          *to \$80,000,000 would be available for grant financing*  
18          *of water conservation projects, which grant funds*  
19          *would be divided equally between the United States*  
20          *and Mexico.*

21          (b) *SENSE OF THE CONGRESS.—It is the sense of the*  
22          *Congress that—*

23                 (1) *water conservation projects are eligible for*  
24                 *funding from the North American Development Bank*  
25                 *under the Agreement Between the Government of the*

1 *United States of America and the Government of the*  
2 *United Mexican States Concerning the Establishment*  
3 *of a Border Environment Cooperation Commission*  
4 *and a North American Development Bank;*

5 (2) *the Board of the North American Develop-*  
6 *ment Bank should support qualified water conserva-*  
7 *tion projects that can assist irrigators and agricul-*  
8 *tural producers; and*

9 (3) *the Board of the North American Develop-*  
10 *ment Bank should take into consideration the needs*  
11 *of all of the border states before approving funding for*  
12 *water projects, and strive to fund water conservation*  
13 *projects in each of the border states.*

14 **SEC. 6. SENSE OF THE CONGRESS REGARDING FINANCING**  
15 **OF PROJECTS.**

16 (a) *IN GENERAL.*—*It is the sense of the Congress that*  
17 *the Board of the North American Development Bank should*  
18 *support the financing of projects, on both sides of the inter-*  
19 *national boundary between the United States and Mexico,*  
20 *that address coastal issues and the problem of pollution in*  
21 *both countries having an environmental impact along the*  
22 *Pacific Ocean and Gulf of Mexico shores of the United*  
23 *States and Mexico.*

24 (b) *AIR POLLUTION.*—*It is the sense of the Congress*  
25 *that the Board of the North American Development Bank*

- 1 *should support the financing of projects, on both sides of*
- 2 *the international boundary between the United States and*
- 3 *Mexico, which address air pollution.*

Attest:

*Secretary.*

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

**H. R. 254**

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**AMENDMENT**