

# THE SOUTHWEST REGIONAL BORDER AUTHORITY ACT

## SHORT SUMMARY

### Sponsors

*Senate:* Jeff Bingaman (principal), Kay Bailey Hutchison, Barbara Boxer • *House:* Silvestre Reyes

### Purpose

The Southwest Regional Border Authority will help economically-distressed southwest border communities create and implement regional economic development plans to reduce chronic poverty and improve the quality of life for border residents. To that end, the Authority will provide funding for projects that stimulate economic development, with an emphasis on infrastructure, workforce, technology, and community development, as well as entrepreneurship. In addition, the Authority will provide a mechanism for leveraging new and existing public and private sector funding – without supplanting existing institutions or programs that provide funding to the border.

### The Need

According to research compiled by the Interagency Task Force on the Economic Development of the Southwest Border: 20 percent of the residents of the southwest border region live below the poverty level; unemployment rates in southwest border counties often reach as high as five times the national unemployment rate; per capita personal income in the region is significantly below the national average, and much of the income in the region is distributed through welfare programs, retirement, and unemployment payments; and a lack of adequate access to capital has created economic disparities and made it difficult for businesses to start up in the region. In addition, the development of key infrastructures – such as water and wastewater, transportation, public health, and telecommunications – has not kept pace with the population explosion and the increase in cross-border commerce.

Many of the counties of the southwest border region are among the most economically distressed in the nation. Despite a national trend toward the creation of independent entities focused on regional economic development (i.e., the Appalachian Regional Commission, Denali Commission, Delta Regional Authority, and Northern Great Plains Regional Authority), there is currently no single regional economic development entity focused on the pressing needs of the southwest border region.

### Guiding Principles

While numerous uncoordinated programs have been created to address the needs described above, many have experienced limited or qualified success. The Southwest Regional Border Authority will succeed where others have failed because of four guiding principles:

- **Bottom-Up:** The Authority will fund proposals that are designed at the local level and approved by the state to meet regional economic development goals. This bottom-up approach is key to the development of the region.
- **Regional:** The Authority will fund projects leading to the creation of a diversified regional economy. This is important to the development of the border region, where, currently, states and counties often are forced to compete against each other for limited funding.
- **Independent:** The Authority will be an independent agency, the significance of which is that it will not be subject to another Federal agency's mission requirements when determining which projects to fund.
- **Federal/State Management:** The Authority will comprise one Senate-confirmed Federal representative and the governors of New Mexico, Texas, Arizona, and California. This structure ensures representation by each state and a liaison back to the Federal agencies.

### Bill Highlights

**Composition** – The Authority will comprise four state members – the governors of the four southwest border states or their designees – and a Senate-confirmed Federal member. The Federal member will serve as co-chair, along with one of the state members. The state co-chair will serve for a period of not more than two years, and the chair will rotate among the four states.

**Duties** – The Authority's primary responsibility will be the approval of grants and economic development plans for the border region, but it will also be involved in: conducting research on the resources available to the region;

sponsoring demonstration projects; recommending changes to Federal, state, and local border programs to increase their effectiveness; providing a coordinating mechanism among the Federal border programs to avoid duplication of efforts; and enhancing the capacity of local development districts.

**Development Planning Process** – The legislation sets forth a development planning process, the end product of which is used by the Authority to determine which projects to fund and in what order of priority. The process begins at the local level when *local development districts* come together to develop a local development plan. Each state is then responsible for approving the local development plans within their purview and compiling a *state development plan* for submission to the Authority. Finally, the Authority is responsible for writing a *regional development plan*, based largely upon the state plans, but also including input from the private sector, academia, and non-governmental organizations.

**County Designations** – At its initial meeting, the Authority is directed to designate several categories of areas to be used in determining project funding eligibility: distressed counties, attainment counties, competitive counties, and isolated areas of distress. These designations are based on a county’s poverty rate, per capita market income, and 3-year average unemployment rate, as compared to the national average. At least 50 percent of the Authority’s funding must be awarded to *distressed counties* or *isolated areas of distress*. In addition, projects in *attainment counties* are ineligible for funding, and projects in *competitive counties* can only be funded at up to 30 percent of the total project cost. These prohibitions can be waived if an attainment or competitive county participates in a multicounty project that includes a distressed county or isolated area of distress.

**Eligibility** – Within the stipulations discussed above regarding county designations, the Authority will award grants for projects and programs that reflect local development priorities and that benefit distressed communities in the border region. The term “*border region*” means those counties within 150 miles of the U.S.-Mexico border. The bill also specifies that at least 60 percent of the total funding awarded go solely to projects in *distressed counties physically located along the border*. The remaining 40 percent could also be used for such projects or it could go to projects in other distressed or competitive counties in the larger border region.

**Grant Programs** – The Authority will provide grants for projects that are consistent with local and state development plan priorities. Grants must be used for projects that foster economic development and that fall into at least one of the following four categories: (1) Infrastructure Development and Improvement; (2) Technology Development and Deployment; (3) Community Development and Entrepreneurship; and (4) Education and Workforce Development.

**Funding** – The Authority may provide grants with funds provided entirely from appropriations to carry out this act, in combination with other Federal funds, or in combination with funds from any other source. Funding may be awarded to projects with both a U.S. and a non-U.S. partner, provided that the funding is matched on a one-to-one basis by the non-U.S. participant. No funds shall be awarded to any entity not incorporated in the United States.

**Supplements to Federal Grant Programs** – The Authority may provide funding to increase the Federal share of a Federal grant program to as much as 90 percent. This is important to counties that cannot afford the required Federal match of existing grant programs.

**Demonstration Projects** – The Authority may award up to \$5 million for up to 10 demonstration projects throughout the region (no more than 3 in each state). Such projects must be multicounty or multistate in nature and must be recommended by the Authority’s regional development plan.

**Authorization of Appropriations** – The Authority is authorized at \$50 million the first year, followed by \$75 million, \$90 million, \$92 million, and \$94 million, in successive years. The Authority will have to be reauthorized after October 1, 2008.

---

*For more information, contact:*

Angelo Gonzales  
Office of Senator Jeff Bingaman  
703 Hart Senate Office Building  
Washington, DC 20510  
Tel: 202/224-5521  
E-mail: [angelo\\_gonzales@bingaman.senate.gov](mailto:angelo_gonzales@bingaman.senate.gov)

Michael Torra  
Office of Rep. Silvestre Reyes  
1527 Longworth House Office Building  
Washington, DC 20515  
Tel: 202/225-4831  
E-mail: [michael.torra@mail.house.gov](mailto:michael.torra@mail.house.gov)

**SOUTHWEST REGIONAL BORDER AUTHORITY ACT  
COVERED COUNTIES**

**Arizona:**

<i>Cochise</i>	La Paz	<i>Santa Cruz</i>
Gila	Maricopa	<i>Yuma</i>
Graham	<i>Pima</i>	
Greenlee	Pinal	

**California:**

<i>Imperial</i>	Riverside	<i>San Diego</i>
Los Angeles	San Bernardino	Ventura
Orange		

**New Mexico:**

Catron	Grant	<i>Luna</i>
Chaves	<i>Hidalgo</i>	Otero
<i>Doña Ana</i>	Lincoln	Sierra
Eddy		Socorro

**Texas:**

Atascosa	<i>Hudspeth</i>	Pecos
Bandera	Irion	<i>Presidio</i>
Bee	<i>Jeff Davis</i>	Reagan
Bexar	Jim Hogg	Real
<i>Brewster</i>	Jim Wells	Reeves
Brooks	Karnes	San Patricio
<i>Cameron</i>	Kendall	Shleicher
Coke	Kenedy	Sutton
Concho	Kerr	<i>Starr</i>
Crane	Kimble	Sterling
Crockett	<i>Kinney</i>	<i>Terrell</i>
<i>Culberson</i>	Kleberg	Tom Green
Dimmit	La Salle	Upton
Duval	Live Oak	Uvlade
Ector	Loving	<i>Val Verde</i>
Edwards	Mason	Ward
<i>El Paso</i>	<i>Maverick</i>	<i>Webb</i>
Frio	McMullen	Willacy
Gillespie	Medina	Wilson
Glasscock	Menard	Winkler
<i>Hidalgo</i>	Midland	<i>Zapata</i>
	Nueces	Zavala

Counties in *italics* indicate those that lie along the U.S.-Mexico border. Under the bill, the Authority is required to provide *at least 60 percent* of its funding for projects that benefit distressed counties that lie along the border, or isolated areas of distress within counties that lie along the border.

**THE SOUTHWEST REGIONAL BORDER AUTHORITY ACT**  
**SECTION-BY-SECTION SUMMARY**

**Section 1. Short Title; Table of Contents**

The Southwest Regional Border Authority Act

**Section 2. Findings and Purposes.** *See bill for list of findings and purposes.*

**Section 3. Definitions.** *See bill for list of definitions.*

**Title I—Southwest Regional Border Authority**

**Section 101. Membership and Voting.**

- *Composition* – The Authority comprises 5 members, one representing the Federal government, and the other four representing each of the Southwest Border states – California, Arizona, New Mexico, and Texas. The four state members are the Governors of each state or their designees. The Federal co-chair is appointed by the President and confirmed by the Senate.
- *Co-Chairs* – The Authority will have 2 co-chairs, one being the Federal member and the other being one of the state members. The state co-chair will be elected by the state members for a term of no more than two years, and in order to ensure rotation of the chair, no state is allowed to hold the chair more than once during a four-year period.
- *Alternate Members* – Each state member is allowed one alternate, who must be a resident of the state and from the Governor’s cabinet or personal staff. The Federal co-chair also has an alternate, who is appointed by the President.
- *Meetings* – The Authority is directed to hold an initial meeting within 180 days of enactment or 60 days after a Federal co-chair has been appointed, whichever is earlier. The Authority is also directed to meet at least twice a year.
- *Voting* – Decisions of the Authority require the approval of the Federal co-chair, in addition to 3 of the 4 state members. A quorum consists of a majority of the state members. Alternate members are allowed to vote in case of absence, death, disability, removal, or resignation of the Federal or state member they represent.

**Section 102. Duties and Powers.**

- *Duties* – The Authority shall discharge the following duties:
  1. Approving grants and developing plans and programs to establish priorities for the economic development of the border region;
  2. Conducting and sponsoring research and an inventory and analysis of the resources of the border region. The Authority is directed to use, in part, the materials compiled by the Interagency Task Force on the Economic Development of the Southwest Border.
  3. Sponsoring demonstration projects;
  4. Enhancing the capacity of, and providing support for, local development districts in the border region; and if there is no local development district for a portion of the region, fostering the creation of a local development district;
  5. Reviewing Federal, state, and local public and private border programs and recommending changes to increase their effectiveness;
  6. Formulating and recommending, as appropriate, interstate and international compacts and other forms of cooperation;

7. Encouraging private investment in industrial, commercial, and recreational projects in the border region;
  8. Providing a forum for discussion of the problems of the border region and potential solutions;
  9. Providing a mechanism for public input; and
  10. Providing a coordinating mechanism to avoid duplication of efforts among the Federal border programs and the programs established by NAFTA.
- *Powers* – The Authority may utilize the following powers:
    1. Holding hearings;
    2. Requesting information from Federal, state, and local agencies;
    3. Maintaining records for purpose of audit and examination by the Federal government;
    4. Adopting rules and bylaws governing the Authority’s conduct of business and performance of duties.
    5. Requesting detailees from Federal agencies;
    6. Requesting detailees from state and local agencies;
    7. Making recommendations to the President regarding the expenditure of funds under this Act and regarding additional legislation that may be necessary to further the purposes of this Act;
    8. Providing retirement and other benefits to employees of the Authority;
    9. Accepting, using, and disposing of gifts or donations of services or property;
    10. Entering into contracts, leases, cooperative agreements, or other transactions necessary to carry out the Act;
    11. Establishing and maintaining a headquarters office within 100 km of the of the U.S.-Mexico border, as well as field offices within 100 km of the U.S.-Mexico border at locations determined by the Authority. The only stipulation is that there be at least one field office in each border state, located in one of the counties defined under the Act; and
    12. Providing for appropriate representation in Washington, DC.
  - *Federal Cooperation* – The Federal agencies are directed to cooperate with the Authority and provide appropriate assistance in carrying out the Act. To that end, the Federal co-chair serves as the liaison to the Federal agencies.
  - *Administrative Expenses* – The administrative expenses of the Authority are split 60/40 between the Federal government and the states, respectively. A unanimous vote by the state members is required for determining the breakdown of their 40 percent share, provided that no state pays less than 10 percent nor more than 40 percent of the total state share. All expenses of the Federal co-chair are paid by the Federal government. In addition, no state that is delinquent in paying its administrative expenses for longer than one year is allowed to receive assistance under the Act or vote on decisions of the Authority.

**Section 103. Authority Personnel Matters.**

- *Compensation of Members* – The Federal co-chair is compensated at level III of the Executive Schedule, which is \$142,500 in 2003. The alternate Federal co-chair is compensated at level V of the Executive Schedule, which is \$125,400 in 2003, and is expected to perform duties delegated by the Federal co-chair when not actively serving as the alternate. State members and alternates are compensated at the rate established by their state laws.
- *Detailed Employees* – Detailed employees are not allowed to receive compensation other than from the agency from which they are detailed. Violation is punishable by a fine or prison time.
- *Additional Personnel* – The Authority is responsible for appointing and fixing the compensation for all other personnel, including an Executive Director. The salary for such personnel may not exceed the maximum rate of basic pay under the Senator Executive Service schedule, which is \$134,000 in 2003.

- *No Federal Employee Status* – The bill specifies that no member, alternate, officer, or employee of the Authority (other than the Federal co-chair, the alternate Federal co-chair, staff of the Federal co-chair, and any Federal employee detailed to the Authority) shall be considered to be a Federal employee for any purpose.
- *Conflicts of Interest* – The bill includes provisions to prevent and punish conflicts of interest among members, employees, or detailees of the Authority.

## **Title II—Grants and Development Planning**

### **Section 201. Infrastructure Development and Improvement.**

Authorizes the Authority to provide grants to states, local governments, Indian tribes, and public and non-profit organizations for projects to develop transportation, water/wastewater, public health, and telecommunications infrastructure. Such projects must be approved in accordance with Section 302 and the local and state development plans for the region.

### **Section 202. Technology Development and Deployment.**

Authorizes the Authority to provide grants to small businesses, universities, national laboratories, and non-profit organizations to research, develop, demonstrate, and deploy technology that has the potential to stimulate job creation and foster economic development. Examples of issues that new or better technology could address include, but are not limited to: water quality, water quantity, pollution, transportation, energy consumption, public health, and border/port security.

### **Section 203. Community Development and Entrepreneurship.**

Authorizes the Authority to provide grants to states, local governments, Indian tribes, small businesses and public or non-profit entities for projects that create dynamic local economies, foster entrepreneurship, and promote civic responsibility and leadership. Such projects must be approved in accordance with Section 302 and the local and state development plans for the region.

### **Section 204. Education and Workforce Development.**

Authorizes the Authority to provide grants to states, local governments, Indian tribes, small businesses and public or non-profit entities, in coordination with state and local workforce development boards, for projects that assist the border region in obtaining job training, employment related education, and business development. In addition, the Authority may award funding to supplement state and local in-plant training programs designed to attract new businesses. Such projects must be approved in accordance with Section 302 and the local and state development plans for the region.

### **Section 205. Funding.**

*In General* – Stipulates that the Authority may award funding for grants under sections 201-204, and that such funds may be provided entirely from appropriations to carry out this act, in combination with other Federal funds, or in combination with funds from any other source. The order of priority for funding shall be determined by the states.

*Border Counties Allocation* – The Authority is directed to allocate at least 60 percent of the total funding appropriated to it for projects and programs designed to serve the needs of distressed counties that lie along the U.S.-Mexico border, and isolated areas of distress within counties that lie along the border.

*Binational Projects* – The Authority is prohibited to award funding to any entity not incorporated in the United States, but it may award funding for projects with both a U.S. and non-U.S. partner, provided that the non-U.S. partner matches the funding one-to-one. In-kind matching is allowed.

### **Section 206. Supplements to Federal Grant Programs.**

Finds that there are States and communities that may be unable to take advantage of current Federal grant programs because they cannot afford the required state or local match or because there are insufficient Federal funds to meet the needs of the region. Authorizes the Authority to increase the Federal share of such Federal grant programs to not more than 90 percent and to use funding appropriated under this Act to pay all or a portion of the increased Federal share. To take advantage of this, a project must be certified by the appropriate Federal agency and approved by the Federal co-chair.

### **Section 207. Demonstration Projects.**

Authorizes the Authority to approve up to 10 demonstration projects, of which no more than 3 are to be carried out in any one state. Such projects must be consistent with sections 201-204, carried out on a multistate or multicounty basis, and developed in accordance with section 210(d). [Section 210(d) sets forth the requirements for the regional development plan.] Under section 306, \$5 million is authorized to carry out this section.

### **Section 208. Local Development Districts; Certification and Administrative Expenses.**

Authorizes the Authority to provide grants to local development districts, as defined in section 3, to pay for administrative expenses. Such grants shall not exceed 80 percent of the local development district's total administrative expenses and shall not be awarded for a period longer than 3 years. In addition, the local share may be provided in kind.

### **Section 209. Distressed Counties and Areas and Economically Strong Counties.**

- *Designations* – At its initial meeting, the Authority is directed to designate several categories of areas to be used in determining project funding eligibility. Those designations include: distressed counties, attainment counties, competitive counties, and isolated areas of distress.
- *Distressed Counties* – The Authority is directed to allocate at least 50 percent of funding appropriated under the Act for projects in distressed counties or isolated areas of distress, as defined by section 3.
- *Attainment and Competitive Counties* – All non-distressed counties are considered either attainment counties or competitive counties. Projects in attainment counties are ineligible for funding, and projects in competitive counties can only be funded at up to 30 percent of the total project cost by the Authority. These funding prohibitions do not apply to grants for local development district administrative expenses, or to grants for multicounty projects that include a distressed county or isolated area of distress if the project could bring significant benefits to the region.
- *Isolated Areas of Distress* – In designating isolated areas of distress, the Authority is directed to use the most recent Federal data available, or in the absence of such data, to use the most recent state data available.

### **Section 210. Development Planning Process.**

- *State Development Plan and Consultation* – Directs each state member to submit an annual state development plan to the Authority. In carrying out the development planning process, states must consult with local development districts and local units of government, and take into account the

impact of the state plan on the entire binational region, as defined by section 3. Public participation is strongly encouraged in the development, revision, and implementation of all plans under this Act.

- *Regional Development Plan* – Directs the Authority to prepare an annual regional development plan that:
  1. Is based on the state development plans;
  2. Takes into account input from the private sector, academia, and nongovernmental organizations, as well as the impact of the plan on the binational region;
  3. Establishes 5-year goals for development of the border region;
  4. Identifies and recommends to the states potential multistate or multicounty projects and potential projects for the binational region; and
  5. Identifies and recommends to the Authority funding for demonstration projects.

### **Title III—Administration**

#### **Section 301. Program Development Criteria.**

Sets forth criteria for the Authority to use in determining which projects to fund, including: the relationship of the project to overall regional development; the per capita income and poverty and unemployment rates in the area; the financial resources available to the applicants; the socioeconomic importance of the project relative to other projects in competition for the same funds; the prospect that the project will increase the opportunities for employment, the average level of income, or the economic development of the area.

#### **Section 302. Approval of Development Plans and Projects.**

Applications to the Authority for grants and other assistance under the Act are evaluated by the state member representing the applicant. The state member reviews each application and certifies that the project complies with the state development plan, meets applicable criteria under section 301, provides adequate assurance that the project will be properly administered/operated, and otherwise meets the requirements of the Act. Once a project is certified by the appropriate state member, the Authority then has an opportunity to vote either for or against it.

#### **Section 303. Consent of the States.**

Stipulates that nothing in this Act requires the state to engage in or accept any program under this Act without the state's consent.

#### **Section 304. Records.**

Sets forth guidelines for the maintenance of the Authority's records.

#### **Section 305. Annual Report.**

The Authority is directed to submit an annual report to the President and Congress no later than 180 days after the end of each fiscal year. The report must include an evaluation of the progress of the Authority, examples of notable projects, a description of all demonstration projects, and any policy recommendations approved by the Authority. Further, in its first annual report, the Authority is directed to determine whether the creation of loan fund is necessary, and, if so, to request the ability to establish one and provide a description of the eligibility criteria and performance requirements for the loans.

### **Section 306. Authorization of Appropriations.**

Authorizes appropriations as follows:

- (1) \$50,000,000 for fiscal year 2004;
- (2) \$75,000,000 for fiscal year 2005;
- (3) \$90,000,000 for fiscal year 2006;
- (4) \$92,000,000 for fiscal year 2007; and
- (5) \$94,000,000 for fiscal year 2008.

In addition, \$5 million is authorized for demonstration projects, as described in section 207.

### **Section 307. Termination of Authority.**

The legislation sunsets on October 1, 2008.

---

*For more information, contact:*

Angelo Gonzales  
Office of Senator Jeff Bingaman  
703 Hart Senate Office Building  
Washington, DC 20510  
Tel: 202/224-5521  
E-mail: [angelo\\_gonzales@bingaman.senate.gov](mailto:angelo_gonzales@bingaman.senate.gov)

Michael Torra  
Office of Rep. Silvestre Reyes  
1527 Longworth House Office Building  
Washington, DC 20515  
Tel: 202/225-4831  
E-mail: [michael.torra@mail.house.gov](mailto:michael.torra@mail.house.gov)

**SOUTHWEST REGIONAL BORDER AUTHORITY ACT  
COVERED COUNTIES**

**Arizona:**

<i>Cochise</i>	La Paz	<i>Santa Cruz</i>
Gila	Maricopa	<i>Yuma</i>
Graham	<i>Pima</i>	
Greenlee	Pinal	

**California:**

<i>Imperial</i>	Riverside	<i>San Diego</i>
Los Angeles	San Bernardino	Ventura
Orange		

**New Mexico:**

Catron	Grant	<i>Luna</i>
Chaves	<i>Hidalgo</i>	Otero
<i>Doña Ana</i>	Lincoln	Sierra
Eddy		Socorro

**Texas:**

Atascosa	<i>Hudspeth</i>	<i>Pecos</i>
Bandera	Irion	<i>Presidio</i>
Bee	<i>Jeff Davis</i>	Reagan
Bexar	Jim Hogg	Real
<i>Brewster</i>	Jim Wells	Reeves
Brooks	Karnes	San Patricio
<i>Cameron</i>	Kendall	Shleicher
Coke	Kenedy	Sutton
Concho	Kerr	<i>Starr</i>
Crane	Kimble	Sterling
Crockett	<i>Kinney</i>	<i>Terrell</i>
<i>Culberson</i>	Kleberg	Tom Green
Dimmit	La Salle	Upton
Duval	Live Oak	Uvlade
Ector	Loving	<i>Val Verde</i>
Edwards	Mason	Ward
<i>El Paso</i>	<i>Maverick</i>	<i>Webb</i>
Frio	McMullen	Willacy
Gillespie	Medina	Wilson
Glasscock	Menard	Winkler
<i>Hidalgo</i>	Midland	<i>Zapata</i>
	Nueces	Zavala

Counties in *italics* indicate those that lie along the U.S.-Mexico border. Under the bill, the Authority is required to provide *at least 60 percent* of its funding for projects that benefit distressed counties that lie along the border, or isolated areas of distress within counties that lie along the border.

108TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

---

IN THE SENATE OF THE UNITED STATES

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

---

**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  
12 workers—

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; and

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

21 (III) located in the region; or

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

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

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

6 (II) is governed by a policy board with  
7 at least a simple majority of members con-  
8 sisting of—

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  
22 cochairperson—

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  
17 regarding—

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.