

Public Law 108–215  
108th Congress

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.

Apr. 5, 2004  
[H.R. 254]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT; GRANT AUTHORITY.**

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

**“SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.** 22 USC 290m–4.

“The President may agree to amendments to the Cooperation Agreement that—

“(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

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

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

**“SEC. 546. GRANTS OUT OF PAID-IN CAPITAL RESOURCES.** 22 USC 290m–5.

“(a) **IN GENERAL.**—The President shall instruct the United States Federal Government representatives on the Board of Directors of the North American Development Bank to oppose any proposal where grants out of the Bank’s paid-in capital resources, except for grants from paid-in capital authorized for the community adjustment and investment program under the Bank’s charter of 1993, would—

“(1) be made to a project that is not being financed, in part, by loans; or

“(2) account for more than 50 percent of the financing of any individual project.

“(b) **EXCEPTION.**—

“(1) GENERAL RULE.—The requirements of subsection (a) shall not apply in cases where—

“(A) the President determines there are exceptional economic circumstances for making the grant and consults with the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives; or

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

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

“(2) LIMITATION.—Not more than an aggregate of \$5,000,000 in grants may be made under this subsection.”.

19 USC 3301  
note.

(c) CLERICAL AMENDMENT.—Section 1(b) of such public law is amended in the table of contents by inserting after 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.”.

22 USC 290m–6.

**SEC. 2. ANNUAL REPORT.**

The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report on the North American Development Bank, which addresses the following issues:

(1) The number and description of the projects that the North American Development Bank has approved. The description shall include the level of market-rate loans, non-market-rate loans, and grants used in an approved project, and a description of whether an approved project is located within 100 kilometers of the international boundary between the United States and Mexico or within 300 kilometers of the international boundary between the United States and Mexico.

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

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

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

(5) A description of any efforts and discussions between the United States and Mexican governments to expand the type of projects which the North American Development Bank finances beyond environmental projects.

(6) A description of any efforts and discussions between the United States and Mexican governments to improve the effectiveness of the North American Development Bank.

(7) The number and description of projects authorized under the Water Conservation Investment Fund of the North American Development Bank.

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

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

(1) Texas irrigators and agricultural producers are suffering enormous hardships in the lower Rio Grande River valley because of Mexico's failure to abide by the 1944 Water Treaty entered into by the United States and Mexico;

(2) over the last 10 years, Mexico has accumulated a 1,500,000-acre fee water debt to the United States which has resulted in a very minimal and inadequate irrigation water supply in Texas;

(3) recent studies by Texas A&M University show that water savings of 30 percent or more can be achieved by improvements in irrigation system infrastructure such as canal lining and metering;

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

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

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

(1) water conservation projects are eligible for funding from the North American Development Bank under 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

(2) the Board of the North American Development Bank should support qualified water conservation projects which can assist Texas irrigators and agricultural producers in the lower Rio Grande River Valley.

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

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

(1) the development of qualified water conservation projects in southern California and other eligible areas in the 4 United States border States, including the conjunctive use and storage of surface and ground water, delivery system conservation, the re-regulation of reservoirs, improved irrigation practices, wastewater reclamation, regional water management modeling, operational and optimization studies to improve water conservation, and cross-border water exchanges consistent with treaties; and

(2) new water supply research and projects along the Mexico border in southern California and other eligible areas

in the 4 United States border States to desalinate ocean seawater and brackish surface and groundwater, and dispose of or manage the brines resulting from desalination.

**SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS FOR WHICH FINANCE WATER CONSERVATION FOR IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE SOUTHWEST UNITED STATES.**

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

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

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

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

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

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

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

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

(1) water conservation projects are eligible for funding from the North American Development Bank under 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;

(2) the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers; and

(3) the Board of the North American Development Bank should take into consideration the needs of all of the border states before approving funding for water projects, and strive to fund water conservation projects in each of the border states.

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

(a) **IN GENERAL.**—It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, that address coastal issues

and the problem of pollution in both countries having an environmental impact along the Pacific Ocean and Gulf of Mexico shores of the United States and Mexico.

(b) AIR POLLUTION.—It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, which address air pollution.

Approved April 5, 2004.

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**LEGISLATIVE HISTORY—H.R. 254:**

HOUSE REPORTS: No. 108–17 (Comm. on Financial Services).

**CONGRESSIONAL RECORD:**

Vol. 149 (2003): Feb. 26, considered and passed House.

Vol. 150 (2004): Mar. 12, considered and passed Senate, amended.  
Mar. 24, 25, House agreed to Senate amendment.