

AUTHORIZING 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

OCTOBER 3, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5400]

The Committee on Financial Services, to whom was referred the bill (H.R. 5400) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) IN GENERAL.—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.

“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) 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. 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. ADDITIONAL SENSES OF THE CONGRESS.

(a) 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 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) 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.

PURPOSE AND SUMMARY

H.R. 5400 authorizes the President of the United States to make certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the Border Environment Cooperation Commission and the North American Development Bank.

These institutions were created in 1992 through the North American Free Trade Agreement (NAFTA) to provide financing for environmental projects in the regions along the border of the United States and Mexico. This legislation will authorize an agreement reached between the United States and Mexico to permit these institutions to make below market rate loans and will extend the land area in which these institutions can finance projects.

BACKGROUND AND NEED FOR LEGISLATION

The North American Development Bank (NAD Bank) is an international financial institution established and capitalized in equal parts by the United States and Mexico for the purpose of financing environmental infrastructure projects. It was created along with its sister institution, the Border Environment Cooperation Commission (BECC), in 1993 under NAFTA. When they were established, these institutions were to operate in a boundary area 100 miles on either side of the U.S. Mexico international border.

In March of 2002, President Bush and Mexican President Vicente Fox met at the U.N. International Conference on Financing and Development in Monterrey Mexico. At this meeting the two leaders agreed that the NAD Bank and the BECC need to improve their operations. Currently the NAD Banks has a total paid-in capital of \$450 million with a total lending capacity of nearly \$3 billion. However since its inception, the NAD Bank has approved only \$23.5 million and disbursed only \$11 million in loans.

Representatives from the U.S. and Mexico examined several proposals to improve the operation of the NAD Bank and the BECC. The two sides agreed that in order to increase the number of transactions in which these institutions participate, they should be permitted to make below market rate loans and grants from their paid-in capital. Additionally, the representatives agreed that the

boundary area on the Mexican side of the border should be expanded from 100 kilometers to 300 kilometers.

HEARINGS

On Thursday, May 2, 2002, the Subcommittee on International Monetary Policy and Trade held a hearing on the North American Development Bank. The Subcommittee received testimony from the following witnesses: Mr. Victor Miramontes of American City Vista, Texas; the Honorable Jose A. Aranda, Jr., the Mayor of Eagle Pass, Texas; the Honorable Ernesto Silva, the City Manager of Mercedes, Texas; and Mr. Don Gonzales of Estrada Hinojosa & Co., Inc.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 26, 2002 and ordered reported H.R. 5400, a bill 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, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Bereuter to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The following amendments were considered by the Committee:

An amendment by Mr. Royce, No. 1, as modified by unanimous consent, expressing the sense of Congress that the Board of the North American Development Bank should support the development of qualified water projects and water supply and research projects in Southern California and other eligible areas in the four Border States, was agreed to by a voice vote.

An amendment by Mr. Ose, No. 2, as modified by unanimous consent, expressing the sense of Congress that the Board of the North American Development Bank should amend the definition of "border region" to include the area in the United States that is within 300 kilometers of the international boundary between the United States and Mexico, was not agreed to by a voice vote.

An amendment by Mr. Shadegg, No. 3, expressing the sense of Congress with respect to United States support for North American Development Bank projects which finance water conservation for irrigators and agricultural producers in the Southwest United States, was agreed to by a voice vote.

An amendment by Mr. Ose, No. 4, expressing the sense of Congress that the North American Development Bank should support the financing of projects that address coast-

al issues and air pollution on both sides of the international boundary between the United States and Mexico, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The changes made by this legislation will improve the performance of the NAD Bank, resulting in improved economic and environmental conditions along the southern border between the United States and Mexico.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available for the timely filing of this report. The Committee estimates that the provisions of this bill will result in no new costs to the U.S. Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available for the timely filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record when it is available.

FEDERAL MANDATES STATEMENT

The estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not available for the timely filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record when it is available.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate and foreign commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Authority to agree to certain amendments to the Border Environment Cooperation Agreement

This section authorizes the President of the United States to make grants and non-market rate loans out of its paid in capital resources with approval of the board. This section further amends the definition of “border region” to include an 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.

Section 2. Annual report

This section requires the Secretary of the Treasury to submit 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 performance of the North American Development Bank. Among other things this report will describe projects approved and funded as well as require Treasury to report on any negotiations with the Mexican government on expanding the range of projects financed as well as on improving the effectiveness of the institution.

Section 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 Valley

This section expresses the sense of Congress that water conservation projects are eligible for funding from the NAD Bank and that the Board should support qualified water conservation projects which can assist irrigators and agricultural producers in Texas.

Section 4. Sense of the Congress relating to United States support for NAD Bank Projects which finance water conservation in the southern California area

This section expresses the sense of Congress that the Board of the NAD Banks should support the development of qualified water projects in southern California, and other eligible areas in the 4 Border States.

Section 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

This section expresses the sense of Congress that the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers. Additionally, this section expresses the sense of the Congress that the Board should take into consideration the needs of all the Border States before approving funding water projects and should strive to fund water conservation projects in each of the Border States.

Section 6. Additional senses of the Congress

This section expresses the sense of Congress that the Board of the NAD Bank should support projects that address coastal pollution issues and projects that address air pollution in both Mexico and the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**NORTH AMERICAN FREE TRADE AGREEMENT
IMPLEMENTATION ACT**

(Public Law 103-182)

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

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TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

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Subtitle D—Implementation of NAFTA Supplemental Agreements

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PART 2—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS

Sec. 541. North American Development Bank.

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

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TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

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Subtitle D—Implementation of NAFTA Supplemental Agreements

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PART 2—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS

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SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

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.

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MINORITY VIEWS

The reporting provisions of H.R. 5400 reflect the seriousness with which this Committee takes its oversight of the U.S. Treasury's role in the operation of the North American Development Bank. NADBank fills a critical role as the only development bank specifically dedicated to the U.S./Mexican border region. Hundreds of very poor communities on both sides of the U.S./Mexico border are in desperate need of additional public finance opportunities. NADBank was specifically created to fill this need, and it is imperative that the U.S. Treasury act aggressively to ensure that the full potential of this institution is realized. This Committee will closely monitor Treasury's work in this area in the years ahead.

JOHN J. LAFALCE.
CHARLES A. GONZALEZ.

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