

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

FEBRUARY 25, 2003.—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

REPORT

[To accompany H.R. 254]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 254) 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 without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 254 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 Vincente 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

No hearings were held on this legislation in the 108th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 13, 2003 and ordered reported to the House H.R. 254, 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. Oxley to report the bill to the House with a favorable recommendation 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 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 adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 24, 2003.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 254, 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.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehall.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 254—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

H.R. 254 would authorize the President to agree to a change in the North American Development Bank's (NADBank's) charter that would permit the bank to use its capital to make grants and below-market-rate loans to finance environmental infrastructure projects. The bill also would expand NADBank's regional focus to include the area in Mexico within 300 kilometers of the U.S./Mexican border. CBO estimates that enacting the bill would not affect federal spending or receipts.

The NADBank was established as a multilateral development bank by an agreement between the governments of the United States and Mexico in 1993. It has a mandate to finance environmental infrastructure projects in the U.S./Mexican border region with a particular focus on potable water, wastewater treatment, municipal solid waste, and related projects. Capitalized by appropriations of \$225 million from each government, NADBank began operations in November 1994. In addition to the paid-in capital, NADBank has the authority to borrow an additional \$2.55 billion, an amount sufficient to support lending operations of up to \$3 billion.

In the eight years of its existence, however, NADBank has financed few projects. Of the \$450 million in appropriated funds for NADBank, 10 percent was earmarked for grant assistance in the two countries; the rest of the funds were invested in government and other income generating securities. As of December 31, 2002, the bank had written contracts for only nine loans totaling \$24 million. H.R. 254 would authorize the bank to make grants and below-market-rate loans. NADBank has announced plans to use the authority to provide \$90 million in grants from retained earnings for water conservation and solid-waste projects and provide \$50 million in below-market-rate loans. We estimate that expanding its regional focus would not greatly increase the demand for NADBank financing. Given the relative inactivity of the bank and the fact that it has no outstanding debt, CBO estimates that using its capital base in this manner would likely have no impact on its other financing operations or credit rating.

H.R. 254 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact is Joseph C. Whitehill. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

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 NADBank 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 NADBank projects which finance water conservation in the Southern California Area

This section expresses the sense of Congress that the Board of the NADBank 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 NADBank 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.

* * * * *

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

* * * * *

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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PURPOSE AND SUMMARY

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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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