to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 41

Whereas, congress, through the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act), mandated that the Secretary of the United States Department of Agriculture consolidate the then existing thirty-two federal milk marketing orders into not less than ten nor more than fourteen orders by April 4, 1999; and

Whereas, the FAIR Act also authorized the Secretary of the United States Department of Agriculture to review and reform the pricing and other provisions of the consolidated orders; and

Whereas, on January 23, 1998, the Secretary of the United States Department of Agriculture issued proposed rules for federal milk order consolidations and reforms; and

Whereas, these proposed rules included two options for pricing milk used in Class I (fluid milk products), which are noted and referred to as Option 1A and Option 1B; and

Whereas, Option 1A is similar to the present geographic price structures; however, Option 1B would reduce the minimum federal order prices in Louisiana by more than one dollar per hundredweight; and

Whereas, while demand has been rising due to increasing population, milk production in Louisiana and the entire Southeast has declined during each of the past seven years; and as a result, larger quantities of milk are imported from other regions at higher cost than local milk; and

Whereas, implementation of Option 1B, even with the highest transition option, would aggravate the loss of dairy farms and local milk production; and

Whereas, such loss will be devastating to the dairy farmer, the rural communities, and the consumers. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United Stated to support, and urges and requests the United States Secretary of Agriculture to incorporate, Option 1A as the pricing procedure in all federal milk marketing orders in his final decision on consolidation and reform of these orders. Be it

Further Resolved, That a copy of this Resolution shall be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, each member of the Louisiana congressional delegation, and the Secretary of the United States Department of Agriculture.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 2614. A bill to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes (Rept. No. 105–208).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amended preamble:

H. Con. Res. 131. A concurrent resolution expressing the sense of Congress regarding the ocean (Rept. No. 105–209).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S.J. Res. 41. A joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital (Rept. No. 105–210).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1683. A bill to transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Ms. SNOWE, Mr. GORTON, Mr. WELLSTONE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. CHAFEE, Mrs. BOXER, Mrs. MURRAY, Mr. GRASSLEY, Mr. WYDEN, Mr. BINGAMAN, Mr. KERRY, Mr. ROBB, Mr. INOUYE, Mr. TORRICELLI, Mr. LEVIN, Mr. BUMPERS, Mr. JOHNSON, Mr. DEWINE, Mr. KOHL, Ms. COLLINS, Mr. CLELAND, and Mr. MOYNIHAN):

S. 2152. A bill to establish a program to provide credit and other assistance for encouraging microenterprises in developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. REID):

S. 2153. A bill to require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER:

S. 2154. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN:

S. 2155. A bill to provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. GRASSLEY, Mr. LOTT, Mr. BREAUX, Mr. BURNS, Mr. MACK, Mr. BINGAMAN, Mr. FRIST, Mr. MURKOWSKI, Mrs. MURRAY, Mr. ROBERTS, Mr. HOLLINGS, Mr. DODD, Mr. FAIRCLOTH, Ms. COLLINS, Mr. JEFFORDS, Mr. THOMAS, Mr. D'AMATO, Mr. HATCH, Mr. SHELBY, Mr. ASHCROFT, Mr. KEMPTHORNE, Mr. ROBB, Mr. CLELAND, Mr. CRAIG, Mr. SANTORUM, and Mr. LEAHY):

S.J. Res. 50. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. BYRD, Mr. ROCKEFELLER, and Ms. MIKULSKI):

S.J. Res. 51. A joint resolution granting the consent of Congress to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 246. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. MACK, Mr. WELLSTONE, and Mr. FEINGOLD):

S. Con. Res. 103. A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. SNOWE, Mr. GORTON, Mr. WELLSTONE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. CHAFEE, Mrs. BOXER, Mrs. MURRAY, Mr. GRASSLEY, Mr. WYDEN, Mr. BINGAMAN, Mr. KERRY, Mr. ROBB, Mr. INOUYE, Mr. TORRICELLI, Mr. LEVIN, Mr. BUMPERS, Mr. JOHNSON, Mr. DEWINE, Mr. KOHL, Ms. COLLINS, Mr. CLELAND, and Mr. MOYNIHAN):

S. 2152. A bill to establish a program to provide credit and other assistance for encouraging microenterprises in developing countries, and for other purposes; to the Committee on Foreign Relations.

MICROCREDIT FOR SELF-SUFFICIENCY ACT OF 1998

Mr. DURBIN. Mr. President, I rise to introduce a bill today which is cosponsored by at least 20 of my colleagues in the Senate, a bipartisan offering on an issue which I came to be familiar with over 10 years ago. I traveled to the country of Bangladesh. It is not exactly on the itinerary of favorite congressional trips because it is a country which, although it is large and very interesting, has had its share of misfortune. It seems whenever any natural disaster would strike in the world it would stop in Bangladesh. We, of course, conjure an image in our mind of people who have suffered through typhoons and tornadoes and flooding and all sorts of deprivation. It is a very poor country.

Then Congressman, the late Mike Synar, and I went to Bangladesh. One of the reasons we went was to explore an issue which we had heard a lot about. There is an institution created in Bangladesh known as the Grameen Bank. Grameen means ''people's bank.'' It is an extraordinary institution because it is an unusual bank; it is

a bank designed to provide very small loans to very poor people. So Congressman Synar and I joined with people from the American Embassy and got in our four-wheel drive vehicle and drove out from Dakar into the countryside until the road ended, and then our four-wheel vehicle could go no further and we got out and started hiking a few miles into the brush and came upon a tiny little village. In this village we were invited to a bank meeting, a meeting of the board of directors of the Grameen Bank, in this tiny, obscure, almost nameless Bangladesh village. The bank meeting was unlike any meeting of any board of directors one would ever imagine.

Seated in a little shelter were about 30 or 40 women, all dressed in brightly colored saris, with a third eye in their foreheads, many of them holding babies in a typical Asian squatting position and looking up at these visitors who had come to see them.

Our host, a professor from a university in Bangladesh who was familiar with the program, Dr. Huk, introduced us to the women in the audience. He said at one point, ''Is there anyone here who has ever heard of the United States of America?'' Not one of them had. And here we were, these two Congressmen standing before them, looking like creatures from some other planet I am sure, wanting to know more about this little bank.

This bank has grown in size and scope in an effort to provide microcredit, small loans, to some of the poorest people in the world. What does $100 mean to an American? For us, it might be a nice trip shopping or a trip to a restaurant. But for a woman living in Bangladesh, $100 might mean that she can buy some tools and develop a skill and a craft to feed her family; $100 might mean that she can buy a milking cow that she can then use, not only to feed her family, but to sell the products and to make some money for her future.

How does this work, that people who are so poor, with literally no earthly possessions, can be debtors, can borrow money from a bank? It works because the concept is that when they undertake this debt, several other villagers will sign up with them, cosign the note, if you will, in a guarantee that the payment will be made because, you see, the cosigners cannot get a debt of their own until the original debt is paid off. So they look very carefully to make sure that the debt is repaid on a monthly basis. The payback rate on Grameen Bank is over 95 percent.

Why in the world would I raise this question here on the floor of the U.S. Senate in the great country that we live in, with all of our wealth and opportunity? Because I, frankly, think that this is a model that we should encourage and follow around the world. We do not spend an extraordinarily great amount of money on foreign aid compared to other nations, but we do spend billions of dollars. The bill that I introduce suggests that we should take a portion of that money each year and dedicate it to microcredit projects, projects like the Grameen Bank around the world.

Many Americans might say, ''Well, Senator, it sounds like a great idea, but why should we worry about a woman in Bangladesh?'' One of the women in this meeting I attended came up to me afterwards and, with an interpreter—she had a baby in her arms—she told me her life story.

She was 18 years old. The baby she was holding was her third child. She told me, quite proudly, that she was not going to have any more children. She was practicing birth control. She said, ''My other two children are alive.'' Now, that is an amazing statement in the United States. You think, ''Well, of course, why would you bring that up?'' But in a developing country, it is a very serious concern: Will my baby survive? Do I need to have another baby? That is why many of the developing countries have such high birth rates.

She had decided that because of good health techniques, which the United States and United Nations had encouraged, that her babies had a chance to live, and with the Grameen Bank, she had a chance to improve their livelihood. She said, quite proudly, ''I'm going to have a family of three and that is all we need and Grameen Bank has really helped to make this possible.''

A tiny loan of $100, a family planning program, some public health techniques and this woman is going to limit her family to three. Is that important to us in the United States? It is, because in Asia, in Africa and around the world, the problem of overpopulation is one that is not local or regional, it is a global problem.

Overpopulation leads to many problems—economic instability, political instability, environmental degradation. Look at the nation of India today. India is in the headlines because of its recent nuclear test, its fears of China and Pakistan. Yet, India is going to be in the headlines in a few years because it will be the most populated nation in the world. It will pass China. As that teeming population grows and creates political pressures, it becomes a concern in the United States.

I hope we will make modest investments in those foreign aid programs that really can improve the quality of life in developing countries and can really cope with some of the problems such as overpopulation. Microcredit enjoys broad bipartisan support.

An organization known as RESULTS, which is nationwide but has a very significant chapter in Chicago, has encouraged me to introduce this legislation, which I am happy to do. There are many people who are strong supporters of this. One of them is well known to many of us who grew up watching ''The Mary Tyler Moore Show.'' Her name is Valerie Harper, also known as Rhoda.

For some reason, this has become a passion for her, a commitment to helping women around the world receive basic credit so that they can lift their lives and improve their families. I salute Valerie Harper for her leadership on this. Microcredit encourages entrepreneurship and free market economic development.

The repayment rates on these loans are over 95 percent, and it is found that $1 million put into microcredit can generate $15 million in small loans over 5 years as people get better off and start building their own livelihoods. It gives poor people, and especially women, the means to meet the needs of their family in areas of health, education, and nutrition.

Our First Lady Hillary Rodham Clinton spoke in Chicago a few years ago, and I thought she made a very important observation. She said, if you will look at the underdeveloped nations and wonder if they have a chance to move toward democracy or toward a free market economy, the first place you should look is how they treat women. Are women given an opportunity to be educated? Are they given an opportunity to work outside the home and develop their skills? How are they treated? I think we are finding in countries where microcredit is becoming an important part of the program that women are given that chance.

This bill in particular requires the U.S. Agency for International Development to spend $160 million for fiscal year 1999 on its Microenterprise Assistance Program, with at least 50 percent of that amount dedicated to serving the poorest in the world with microcredit loans under $300. We know that these loans are repaid, and we know that they are recycled, so we are creating a stock, a basic pool of money that can be reinvested in nations around the world to bring them up to higher living standards.

One-fifth of the world's population lives in extreme poverty. Microcredit is one of the most effective antipoverty tools in existence. I talked to one of my colleagues and asked him to cosponsor this bill the other day and he said, ''You know, I like this bill. There are so many things we do in foreign aid that end up creating more bureaucracies and agencies and studies; this is real, this gives to people who need a helping hand the kind of help that they really need.''

Unfortunately, AID has had this program, even though it has not been specifically authorized, and they have not funded it at levels that I think are adequate. So this legislation will set a standard for how much we invest in this program each and every year. Many of my colleagues have joined me on this legislation. I hope that others who have not will take a look at it. I think they will find that this is a reasonable approach, a successful approach, and one where the investment in America's foreign aid dollars will not only be in our best interest, but in

the best interest of people around the world who just need a helping hand and opportunity. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2152

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Microcredit for Self-Sufficiency Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) More than 1,000,000,000 people in the developing world are living in severe poverty.

(2) According to the United Nations Children's Fund, the mortality for children under the age of 5 is 10 percent in all developing countries and nearly 20 percent in the poorest countries.

(3) Nearly 33,000 children die each day from malnutrition and disease which is largely preventable.

(4)(A) Women in poverty generally have larger work loads and less access to educational and economic opportunities than their male counterparts.

(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health, and education, since women tend to reinvest income in their families.

(5)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

(B) Many women turn to self-employment to generate a substantial portion of their livelihood.

(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

(6)(A) On February 2–4, 1997, an international Microcredit Summit was held in Washington, D.C., to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005.

(B) With an average of 5 people to a family, achieving this goal will mean that the benefits of microcredit will reach nearly half of the world's more than 1,000,000,000 absolute poor.

(7)(A) The poor are able to expand their incomes and their businesses dramatically when they have access to loans at reasonable interest rates.

(B) Through the development of self-sustaining microcredit programs, poor people themselves can lead the fight against hunger and poverty.

(8)(A) Nongovernmental organizations such as the Grameen Bank, Accion International, and the Foundation for International Community Assistance (FINCA) have been successful in lending directly to the very poor.

(B) These institutions generate repayment rates averaging 95 percent or higher.

(9)(A) Microcredit institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

(B) Interest income on a credit portfolio can be used to pay recurring institutional costs, assuring that the long-term development is sustained.

(10) Microcredit institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

(11) The development of sustainable microcredit institutions that provide credit and training, and mobilize domestic savings, are critical to a global strategy of poverty reduction and broad-based economic development.

(12)(A) In 1994, AID launched a Microenterprise Initiative in consultation with Congress.

(B) The Initiative was committed to expanding funding for AID's microenterprise programs, provided funding of $137,000,000 for fiscal year 1994, and set a goal that, by the end of fiscal year 1996, half of all microenterprise resources would support programs and institutions providing credit to the poorest with loans under $300.

(C) In fiscal year 1996, total funding for microenterprise activities fell to $111,000,000 of which only 39 percent was used for programs benefiting the poorest with loans under $300.

(D) Increased investment in microcredit institutions serving the poorest is critical to achieving the Microcredit Summit's goal.

(E) AID's funding for microenterprise activities in the developing world should be expanded to $160,000,000 for fiscal year 1999 to parallel the growing capacity of microcredit institutions in the developing world.

(13) Providing the United States share of the global investment needed to achieve the goal of the Microcredit Summit will require only a modest increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

(14)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microcredit institutions.

(B) Microcredit institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

(15) PVOs and other nongovernmental organizations have demonstrated competence in developing networks of local microcredit institutions that can reach large numbers of the very poor, and help the very poor achieve financial sustainability.

(16) Since AID has developed very effective partnerships with PVOs and other nongovernmental organizations, AID should place a priority on investing in PVOs and other nongovernmental organizations through AID's central funding mechanisms.

(17) By expanding and replicating successful microcredit institutions, AID should be able to assure the creation of a global infrastructure to provide financial services to the world's poorest families.

(18)(A) AID can provide leadership among bilateral and multilateral development aid agencies as such agencies expand their support of microenterprise for the poorest.

(B) AID should seek to improve the coordination of efforts at the operational level to promote the best practices for providing financial services to the poor and to ensure that adequate institutional capacity is developed.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the continuation and expansion of AID's commitment to develop microcredit institutions;

(2) to make microenterprise development the centerpiece of the overall economic growth strategy of AID;

(3) to support and develop the capacity of United States PVOs, and other international nongovernmental organizations to provide credit, savings, and training services to microentrepreneurs; and

(4) to increase the amount of assistance devoted to providing access to credit for the poorest sector in developing countries, particularly women.

SEC. 3. DEFINITIONS.

In this Act:

(1) AID.—The term ''AID'' means the United States Agency for International Development.

(2) MICROCREDIT, MICROENTERPRISE, POVERTY LENDING; POVERTY LENDING PORTION OF MIXED PROGRAMS; MIXED PROGRAMS.—The terms ''microcredit'', ''microenterprise'', ''poverty lending portion of mixed programs'', and ''mixed programs'' have the meaning given such terms under the 1994 Microenterprise Initiative of AID.

(3) PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—The term ''PVOs and other nongovernmental organizations'' means—

(A) private voluntary organizations (including cooperative organizations), and

(B) international, regional, or national nongovernmental organizations,

that are active in the region or country where the project is located and that have the capacity to develop and implement microenterprise programs that are oriented toward working directly with the poor, especially the poorest and women.

SEC. 4. MICROENTERPRISE ASSISTANCE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President, acting through the Administrator of AID, is authorized to establish programs to provide credit and other assistance for microenterprises in developing countries.

(2) USE OF PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Programs to provide credit for microenterprises and related activities under this section shall be carried out primarily by United States PVOs and other United States and indigenous nongovernmental organizations, including credit unions, cooperative organizations, and other private financial intermediaries.

(b) ELIGIBILITY CRITERIA.—The Administrator of AID shall establish criteria for determining which entities described in subsection (a)(2) are eligible to carry out the purposes described in section 2(b). Such criteria shall include the following:

(1) The extent to which the recipients of credit from the entity lack access to the local formal financial sector.

(2) The extent to which the recipients of credit from the entity are among the poorest people in the country.

(3) The extent to which the entity is oriented toward working directly with poor women.

(4) The extent to which the entity is implementing a plan to become financially self-reliant by charging realistic interest rates to its borrowers.

(c) FUNDING LEVELS FOR FISCAL YEAR 1999.—

(1) IN GENERAL.—Of the amounts made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), not less than $160,000,000 of the funds made available for fiscal year 1999 shall be used to provide assistance under this Act. The funds authorized under the preceding sentence shall be in addition to any funds made available in fiscal year 1999 for microenterprise activities in the former Soviet Union and Eastern Europe pursuant to the FREEDOM Support Act and any funds for special assistance initiatives within Europe, the newly independent states of the Former Soviet Union, Asia, and the Near East.

(2) ADDITIONAL REQUIREMENTS.—

(A) POVERTY LENDING.—Of the funds made available under paragraph (1), not less than

$80,000,000 shall be used to support poverty lending.

(B) SUPPORT OF PVOS AND OTHER NON-GOVERNMENTAL ORGANIZATIONS.—Of the funds made available under paragraph (1), not less than $35,000,000 shall be provided through the central funding mechanisms of AID for support of United States PVOs and United States and indigenous nongovernmental organizations.

(C) MATCHING GRANT PROGRAM.—Of the funds made available under paragraph (1), not less than $10,000,000 shall be used for the private voluntary organizations matching grant program of AID for support of United States PVOs.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TO SUPPORT POVERTY LENDING.—The term ''to support poverty lending'' means—

(i) funds lent to members of the poverty target population (as defined in subparagraph (B)) in low-income countries in amounts equivalent to $300 or less in 1997 United States dollars; and

(ii) funds used for institutional development of an entity described in subsection (a)(2), that is engaged in—

(I) making loans of $300 or less in 1997 United States dollars to members of the poverty target population; or

(II) the poverty lending portion of a mixed program.

(B) POVERTY TARGET POPULATION.—The term ''poverty target population'' means the poorest 50 percent of those individuals living below the poverty line, defined by the national government of the foreign country to which funds are being provided.

SEC. 5. PROGRAM PERFORMANCE CRITERIA.

(a) STRENGTHENING OF APPROPRIATE MECHANISMS.—The Administrator of AID shall—

(1) strengthen appropriate mechanisms, including mechanisms for central microenterprise programs, for the purpose of strengthening the institutional development of the entities described in section 4(a)(2); and

(2) develop and strengthen appropriate mechanisms for the purpose of gathering and disseminating the best practice for targeting microcredit to the poorest segment of the population.

(b) MONITORING SYSTEM.—In order to sustain the impact of the assistance authorized under section 4, the Administrator of AID shall establish a monitoring system that—

(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form;

(2) establishes performance systems or indicators to measure the extent to which projects are achieving such goals; and

(3) provides a basis for recommendations for adjustments to such assistance to enhance the benefit of such assistance for the very poor, particularly women.

(c) ADDITIONAL MONITORING REQUIREMENTS.—As a part of the monitoring system established under subsection (b), the Administrator of AID—

(1) using data provided by lending institutions, shall monitor the actual amount of microenterprise credit and the number of loans made available to the poverty target population as a result of each project or program carried out pursuant to this Act;

(2) using data provided by lending institutions, shall monitor the amount of funding provided pursuant to this Act which is allocated to organizations engaged in making loans of under $300 to the poverty target population, or to the poverty lending portion of mixed programs;

(3) shall report to Congress annually on the progress in implementing AID's institutional plan of action to achieve the Microcredit Summit goal of expanding access to credit and other financial and business services to 100,000,000 of the world's poorest families, especially the women in those families, by 2005; and

(4) shall include a summary of the information collected under paragraphs (1) and (2) in AID's annual presentation to Congress.

Ms. SNOWE. Mr. President, I am pleased to be the lead cosponsor of the Microcredit for Self-Sufficiency Act of 1998. This bipartisan measure is an excellent means of fighting poverty and allowing the world's enterprising poor to escape it.

Microcredit programs extend small loans to very poor people for self-employment projects that generate income to allow them to care for themselves and their families. These loans are provided without collateral to poor people so they can start or expand small businesses. Microcredit encourages entrepreneurship and productivity among the poorest people in the world and allows them and their families to escape from poverty with dignity.

I have always believed that the foreign assistance expenditures made by the United States should provide the maximum benefit in a cost-efficient manner. Microcredit meets this most important test. Microcredit loans are repaid by borrowers at commercial interest rates or higher, and repayment rates reach 95% and above. The money invested in microcredit programs is continually recycled, allowing lenders to reach more people over time.

This assessment is borne out by the Foundation for International Community Assistance (FINCA) which is a non-governmental organization working in Latin America, Africa, Asia and the United States. It estimates that, over 5 years, $1 million invested in one of their microcredit programs generates $15 million in new loans.

The microcredit concept has been a great success. Around the world, small investments have allowed an estimated 10 million poor people to begin self-employment ventures as opposed to relying on government handouts. Far more families could benefit from microcredit, but do not yet have access to such opportunities as this type of lending is not typically done by most financial institutions. It is microcredit institutions that will undertake such opportunities to provide a poor woman in Bangladesh, for example, with the funds to buy an extra cow or goat to increase her modest farming output.

Indeed, one real-life illustration of the success of this program has been the Grameen Bank in Bangladesh. In 1976, a man named Muhammad Yunus conducted an innovative research endeavor to examine the possibility of designing a credit delivery system to provide banking services to help the rural poor. These are individuals who want to escape poverty but find that conventional sources of lending are unavailable to them because they lack the collateral to get a loan.

The Grameen Bank Project began with the goals of extending banking facilities to poor men and women, and creating opportunities for self-employment. It also aimed to reverse the vicious cycle of low income, low savings, and low investment by providing these individuals with credit that would yield greater investment and income.

Today, the Grameen Bank is the largest rural credit institution in Bangladesh. It has over two million borrowers—94 percent of whom are women. The Grameen Bank covers more than half of all villages in Bangladesh and the repayment of its loans, which average $160 in United States dollars, is over 95%. The Bank has also helped train approximately 4,000 individuals from about 100 nations over the last 10 years. There have been 223 Grameen style programs replicated in some 58 nations in the last decade. This success story demonstrates what an individual is capable of when given the opportunity to help himself or herself escape poverty.

Take the instance of Amena Begum, who in 1993, lived in poverty with her family in a village in Bangladesh. She and her family survived by living as squatters and earning money as day laborers or by operating micro-businesses in constant debt to loansharks. That same year, she convinced her husband to move the family to another village and joined the Grameen Bank. A neighbor told her ''We're all poor—or at least we all were when we joined. I'll stick up for you because I know you'll succeed in business.''

Well, she was elected secretary of her Grameen Bank group and repaid a loan she received to start a chicken and duck raising business. Grameen then gave her a second loan and, today, her business is growing and providing for her family's basic needs.

A continent away in Ethiopia another woman, Alemnesh Geressu, her landless husband, and their seven children were also struggling. For several years, she bought grain from a trader and sold it in the local market. However, most of her profit went back to the lender who charged more than 10 percent interest per month. With loans from a Catholic Relief Services Program, she was able to buy grain at a lower price from nearby farmers and make higher profits. Her business grew dramatically and she now sells a local beverage, grows vegetables and even raised a cow—all in addition to her grain marketing activities.

Alemnesh now pays back her loan at a commercial rate that is ten times less than she used to pay to the local money lenders. She has enough to feed her family well and to send two of her children to school. Alemnesh says she now has ''more confidence and skills in myself and I wish the program could accommodate more women to improve their lives.''

More families need to be touched by such programs. Just last year, at the 1997 Global Microcredit Summit, donor nations and international institutions established the goal of reaching 100 million of the world's poorest families,

especially the women in those families with microcredit loans by the year 2005. I believe that this bill, the Microcredit for Self-Sufficiency Act of 1998, puts the United States on track to provide its share of funding to help achieve this worthwhile goal.

This bill authorizes not less than $160 million in Fiscal Year 1999 for the United States Agency for International Development's microenterprise program. To ensure that microcredit assistance goes to those most in need of assistance, the bill targets at least half of these resources to institutions serving the world's poorest families, with loans under $300. Further, the bill channels a larger proportion of microcredit assistance through effective nongovernmental organizations that promote the development and expansion of microcredit programs worldwide.

Mr. President, microcredit programs enjoy broad bipartisan support not only because they help millions to work their way out of poverty but because they also recycle foreign aid dollars through loan repayments. Microcredit programs are self-sustainable, can be replicated, and are powerful vehicles for social development.

This bill would increase the number of families that have access to such programs. Microcedit programs would be raised to a higher priority among our nation's foreign aid initiatives. And the investments called for in this bill will help bring the possibility of financial independence to millions of potential entrepreneurs who struggle to survive on less than $1 a day.

By Mr. DORGAN (for himself and Mr. REID):

S. 2153. A bill to require certain expenditures by the Federal Reserve System to be made subject to congressional appropriations, to prohibit the maintenance of surplus accounts by Federal reserve banks, to provide for annual independent audits of Federal reserve banks, to apply Federal procurement regulations to the Federal Reserve System, to reform the pricing practices of the Federal Reserve System for services provided to the domestic banking system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FEDERAL RESERVE FISCAL ACCOUNTABILITY ACT OF 1998

Mr. DORGAN. Mr. President, today Senator REID and I are introducing legislation to help address a number of budgetary excesses and accountability lapses at the Federal Reserve Board.

When the General Accounting Office (GAO) released its comprehensive and historic report about the management of the Federal Reserve system—which took over two years to assemble —we learned about disturbing financial practices and management failures within the Federal Reserve system. The report is packed with examples of where the Fed could substantially trim costs, and it makes specific recommendations for changes in Fed operations. Unfortunately, the Federal Reserve dismissed most of the GAO's recommendations as irrelevant or unnecessary.

The GAO report shows that during the late 1980s and early 1990s, Federal Reserve expenditures jumped by twice the rate of inflation, while the rest of the federal government has been downsizing. This runaway spending is remarkable given Chairman Greenspan's advice about the need for belt-tightening in the rest of government.

The gold-plated hood ornament of the Federal Reserve System's questionable practices is, in my judgment, its huge cash surplus account that's funded with billions of dollars in taxpayer money to protect against losses, despite the fact that the Fed hasn't suffered a loss for more than 80 consecutive years. When the GAO's report was released a couple of years ago, the Fed had squirreled away some $3.7 billion into the surplus account, which was up some 79% from its level in the late 1980s. Now the Fed has increased the surplus account by another 40% to about $5.2 billion—even though the GAO concluded that ''it is unlikely that the Federal Reserve will ever incur sufficient annual losses such that it would be required to use any funds in the surplus account.''

Our bill, the ''Federal Reserve Fiscal Accountability Act of 1998,'' includes many of the changes recommended by the GAO. It would do the following:

First, the Federal Reserve is required to immediately return to the general fund of the federal Treasury the $5.2 billion of taxpayer's money that has unnecessarily accumulated in the Fed's surplus fund. In addition, the bill asks the GAO to determine the extent to which the Fed's future net earnings should be transferred to the federal Treasury each year.

Second, the GAO, in consultation with the Federal Reserve, will identify and report to Congress a list of the Federal Reserve System activities that are not related to the making of monetary policy. After the report is completed, all non-monetary policy expenditures, as identified by the GAO, would be subject to the congressional appropriations process.

We do not intend to inject politics into monetary policy with this provision. However, over 90 percent of the Fed's operations have nothing to do with interest rate policy according to the GAO. And there is simply no good reason why the Fed's non-monetary expenditures are immune from the same kind of oversight and review required of other federal agencies.

Third, the regional Federal Reserve banks and the Board of Governors will be subjected to annual independent audits. This provision merely codifies what the Federal Reserve has been doing for the most part in recent practice. The detection of any possible illegal acts must be reported to the Comptroller General.

Fourth, the Federal Reserve will be required to follow the same procurement and contracting rules that apply to other federal agencies. These rules should help to prevent the examples of favoritism highlighted in the GAO report and increase competition among contract bidders with the Fed. This requirement ought to substantially reduce procurement costs on a system-wide basis.

Finally, we've made some changes to require the Fed to compete more fairly with the private sector in providing a variety of payment system services, such as check clearing and transportation to banks and other financial institutions.

I invite my colleagues to join us as cosponsors of this much-needed legislation.

Mr. REID. Mr. President, I rise today with the Senator from North Dakota to introduce legislation which we believe will improve fiscal management within the Federal Reserve System and will allow private-sector competitors to compete fairly in ''priced services.'' We assure you that nothing in this bill affects monetary policy of the Federal Reserve.

Back in September 1993, Senator DORGAN and I requested a GAO investigation of the operations and management of the Federal Reserve System. We were concerned because no close examination of the Fed's operations had ever been conducted before. The GAO report that was issued in 1996 raised serious questions about management within the Fed which this bill will address.

One of the most astonishing findings in the 1996 report was the Fed had squirreled-away $3.7 billion in taxpayer money in a slush fund. As of January 1998, this amount has now grown to $5.2 billion. This money could be used for deficit reduction. The Fed claims the slush fund is needed to cover system losses. Since it was created in 1913, however, the Fed has never operated at a loss. This bill prohibits maintenance of surplus accounts and the surplus funds must be sent to Treasury.

The bill requires the Comptroller General of U.S. and the Fed Board of Governors to identify the functions and activities of the Board and each Fed bank which relate to U.S. monetary policy. After six months after enactment, all non-monetary policy expenses of Federal Reserve System, will be subject to congressional appropriations. The Fed will now have to justify its use of operating expenses.

Because of the Fed's self-financing nature, its operating costs have escaped public investigation. In order to be fiscally responsible, all activities regarding government finances need to be scrutinized. Surprisingly, the GAO study was the very first look into the internal operations of the Fed. We think that oversight is needed on the workings of this large and influential public entity. While the rest of Federal government has tightened its belt and

down-sized, the Fed enjoyed enormous growth in its operating costs and questionable growth in its staffing.

Clearly, the Fed could do much more to increase its fiscal responsibility, particularly as it urges frugal practices for other agencies. The picture the GAO report painted of the internal management of the Fed is one of conflicting policies, questionable spending, erratic personnel treatment, and favoritism in procurement and contracting policies.

To date, there has never been an annual, independent audit of the nation's central banking system. This bill provides for annual independent audits of the banks, the Board of Governors and the Federal Reserve System. The detection of any possible illegal acts must be reported to the Comptroller General. The bill requires an annual audit of each Federal reserve bank, the Federal reserve board of governors and in turn, an audit of the Federal reserve system. This Auditor must be a certified public accountant who is totally independent of the Fed. An annual audit is fiscally sound policy which would instill greater public confidence in our banking system.

This bill would also would reform the pricing practices of Federal Reserve System so that fair competition with private businesses would exist. It will eliminate the possibility of accusations of favoritism and conflict of interest in procurement and contracting. This examination will ensure that the Federal Reserve is competing fairly with its private-sector competitors. This matter of fairness becomes very important when the agency both competes with the private sector and also regulates their competitors.

The Federal Reserve operates several lines of business, which compete with the private sector. These businesses are referred to as ''priced services.'' This legislation will ensure that the Federal Reserve is accountable for the manner in which these businesses are run and how the prices for these services are calculated. The Federal Reserve is required by the Monetary Control Act of 1980 to match its revenues with its costs so that the prices for services it sells are not subsidized.

We want to make sure that no accounting or pricing policy hides any subsidy. This legislation will benefit anyone who cashes a check in this country because it promotes a fair and competitive market place for those who provide the many services necessary to process the collection of checks. Costs should be fully recovered in the Federal Reserve's pricing. These annual audits will ensure that they are recovered and will level the playing field for those who can offer competitive services

We usually think of the Federal Reserve in the terms of monetary policy, of setting interest rates. I want to make it very clear, I'm not attempting to interfere with, or impugn, the monetary policy of the Fed. I am simply seeking greater accountability in the operating expenses and internal management of one of our most influential institutions. I believe that the Federal Reserve could do more to increase its cost consciousness and to operate as efficiently as possible. This bill will ensure that this happens and I look forward to greater discussion of this issue by Congress. I encourage the committee to give favorable consideration to our legislation.

By Mrs. BOXER:

S. 2154. A bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants; to the Committee on Labor and Human Resources.

SILICONE BREAST IMPLANT RESEARCH AND INFORMATION ACT

● Mrs. BOXER. Mr. President, today I am introducing a bill that will make a significant difference in the lives of millions of American women—the Silicone Breast Implant Research and Information Act. There is one basic reason for this bill: to make sure women have accurate and complete information so they can make informed decisions about their health.

Each year, nearly 180,000 women are diagnosed with breast cancer in the United States. In total, approximately 2.6 million Americans live with breast cancer. When a women undergoes a mastectomy, she faces the decision of whether to have reconstructive surgery, and one important option she has is to have a silicone breast implant.

Between 1 and 2 million women in the United States have received silicone breast implants over the last 35 years, as part of reconstructive surgery after mastectomy, or for cosmetic purposes.

Many women with silicone implants have come forward with a variety of symptoms and atypical illnesses. Although research over the years has attempted to get to the bottom of this, we still don't have the answers women need and deserve.

In 1992, the Food and Drug Administration restricted the availability of silicone breast implants because it had not received enough evidence to prove that these implants are safe. Currently, silicone breast implants are only available to women who have had breast cancer surgery or who have other special medical needs, such as a severe injury or birth defect. Women who need to have an implant replaced for medical reasons, such as rupture of the implant, are also eligible.

These women should have access to the broadest possible treatment options—including breast implants. But it is just as essential that women can count on sound scientific research regarding the safety of implants. It is essential that the Federal Government coordinate its efforts on this issue to maximize the use of limited resources.

This bill contains three components women need to make informed decisions about silicone breast implants—research, information, and coordination. It gives women not only options, but information and peace of mind.

I am proud to introduce this bill in the Senate, and to be joined by Congressman Gene Green, who is introducing this bill in the House of Representatives. I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2154

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Silicone Breast Implant Research and Information Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Institute of Medicine, it is estimated that 1,000,000 to 2,000,000 American women have received silicone breast implants over the last 35 years.

(2) Silicone breast implants have been used primarily for breast augmentation, but also as an important part of reconstruction surgery for breast cancer or other conditions.

(3) Women with breast cancer or other medical conditions seek access to the broadest possible treatment options, including silicone breast implants.

(4) Women need complete and accurate information about the potential health risks and advantages of silicone breast implants so that women can make informed decisions.

(5) Although the rate of implant rupture and silicone leakage has not been definitively established, estimates are as high as 70 percent.

(6) According to a 1997 Mayo Clinic study, 1 in 4 women required additional surgery because of their implants within 5 years of receiving them.

(7) In addition to potential systemic complications, local changes in breast tissue such as hardening, contraction of scar tissue surrounding implants, blood clots, severe pain, burning rashes, serious inflammation, or other complications requiring surgical intervention following implantation have been reported.

(8) According to the Institute of Medicine, concern remains that exposure to silicone or other components in silicone breast implants may result in currently undefined connective tissue or autoimmune diseases.

(9) A group of independent scientists and clinicians convened by the National Institute of Arthritis and Musculoskeletal and Skin Diseases in April of 1997 addressed concerns that an association may exist between atypical connective tissue disease and silicone breast implants, and called for additional basic research on the components of silicone as well as biological responses to silicone.

(10) According to many reports, including a study published in the Journal of the National Cancer Institute, the presence of silicone breast implants may create difficulties in obtaining complete mammograms.

(11) According to a 1995 Food and Drug Administration publication, although silicone breast implants usually do not interfere with a woman's ability to nurse, if the implants leak, there is some concern that the silicone may harm the baby. Some studies suggest a link between breast feeding with implants and problems with the child's esophagus.

(b) PURPOSE.—It is the purpose of this Act to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect any rule or regulation promulgated under the authority of the Food, Drug and Cosmetic Act that is in effect on the date of enactment of this Act relating to the availability of silicone breast implants for reconstruction after mastectomy, correction of congenital deformities, or replacement for ruptured silicone implants for augmentation.

SEC. 3. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING SILICONE BREAST IMPLANTS AT THE NATIONAL INSTITUTES OF HEALTH.

Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

"SEC. 498C. SILICONE BREAST IMPLANT RESEARCH.

''(a) INSTITUTE-WIDE COORDINATOR.—The Director of NIH shall appoint an appropriate official of the Department of Health and Human Services to serve as the National Institutes of Health coordinator regarding silicone breast implant research. Such coordinator shall encourage and coordinate the participation of all appropriate Institutes in research on silicone breast implants, including—

''(1) the National Institute of Allergy and Infectious Diseases;

''(2) the National Institute of Arthritis and Musculoskeletal and Skin Diseases;

''(3) the National Institute of Child Health and Human Development;

''(4) the National Institute of Environmental Health Sciences;

''(5) the National Institute of Neurological Disorders and Stroke; and

''(6) the National Cancer Institute.

''(b) STUDY SECTIONS.—The Director of NIH shall establish a study section or special emphasis panel if determined to be appropriate, for the National Institutes of Health to review extramural research grant applications regarding silicone breast implants to ensure the appropriate design and high quality of such research and shall take appropriate action to ensure the quality of intramural research activities.

''(c) CLINICAL STUDY.—

''(1) IN GENERAL.—The Director of NIH shall conduct or support research to expand the understanding of the health implications of silicone breast implants. Such research should, if determined to be scientifically appropriate, include a multidisciplinary, clinical, case-controlled study of women with silicone breast implants. Such a study should involve women who have had such implants in place for at least 8 years, focus on atypical disease presentation, neurological dysfunction, and immune system irregularities, and evaluate to what extent if any, their health differs from that of suitable controls, including women with saline implants as a subset.

''(2) ANNUAL REPORT.—The Director of NIH shall annually prepare and submit to the appropriate Committees of Congress a report concerning the results of the study conducted under paragraph (1).''.

SEC. 4. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING SILICONE BREAST IMPLANTS AT THE FOOD AND DRUG ADMINISTRATION.

To assist women and doctors in receiving accurate and complete information about the risks of silicone breast implants, the Commissioner on Food and Drugs shall—

(1) ensure that the toll-free Consumer Information Line and materials concerning breast implants provided by the Food and Drug Administration are available, up to date, and responsive to reports of problems with silicone breast implants, and that timely aggregate data concerning such reports shall be made available to the public upon request and consistent with existing confidentiality standards;

(2) revise the Administration's breast implant information update to clarify the procedure for reporting problems with silicone implants or with the conduct of adjunct studies, and specifically regarding the use of the Medwatch reporting program;

(3) require that manufacturers of silicone breast implants update implant package inserts and informed consent documents regularly to reflect accurate information about such implants, particularly the rupture rate of such implants; and

(4) require that any manufacturer of such implants that is conducting an adjunct study on silicone breast implants—

(A) amend such study protocol and informed consent document to reflect that patients must be provided with a copy of informed consent documents at the initial, or earliest possible, consultation regarding breast prosthesis;

(B) amend the informed consent to inform women about how to obtain a Medwatch form and encourage any woman who withdraws from the study, or who would like to report a problem, to submit a Medwatch form to report such problem or concerns with the study and reasons for withdrawing; and

(C) amend the informed consent document to provide potential participants with the inclusion criteria for the clinical trial and the toll-free Consumer Information number.

SEC. 5. PRESIDENT'S INTERAGENCY COMMITTEE ON SILICONE BREAST IMPLANTS.

(a) ESTABLISHMENT.—There is established an interagency committee, to be known as the President's Interagency Committee on Silicone Breast Implants (referred to in this Act as the ''Committee''), to ensure the strategic management, communication, and oversight of the policy formation, research, and activities of the Federal Government regarding silicone breast implants.

(b) COMPOSITION.—The Committee shall be composed of—

(1) an individual to be appointed by the President who represents the White House domestic policy staff;

(2) a representative, to be appointed by the Secretary of Health and Human Services, from—

(A) the Office of Women's Health at the Department of Health and Human Services;

(B) the National Institutes of Health;

(C) the Food and Drug Administration; and

(D) the Centers for Disease Control and Prevention;

(3) a representative of the Department of Defense with experience in the Department's breast cancer research program;

(4) representatives of any other agencies deemed necessary to accomplish the mission of the Committee, including the Social Security Administration if appropriate;

(5) up to 4 individuals to be appointed by the President from scientists with established credentials and publications in the area of silicone breast implants; and

(6) 2 women who have or have had silicone breast implants to be appointed by the President.

(c) CHAIRPERSON.—

(1) IN GENERAL.—The individual appointed under subsection (b)(2)(A), or other official if the President determines that such other official is more appropriate, shall service as the chairperson of the Committee.

(2) DUTIES.—The chairperson of the Committee shall—

(A) not less than twice each year, convene meetings of the Committee; and

(B) compile information for the consideration of the full Committee at such meetings.

(d) MEETINGS.—The meetings of the Committee shall be open to the public and public witnesses shall be given the opportunity to speak and make presentations at such meetings. Each member of the Committee shall make a presentation to the full Committee at each such meeting concerning the activities conducted by such member or by the entity that such member is representing related to silicone breast implants.

(e) ADMINISTRATIVE PROVISIONS.—

(1) TERMS AND VACANCIES.—A member of the Committee shall serve for a term of 2 or 4 years (rotating terms). A member may be reappointed 2 times, but shall not exceed 8 years of service. Any vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to carry out the duties of the Committee.

(2) COMPENSATION; REIMBURSEMENT OF EXPENSES.—Members of the Committee may not receive compensation for service on the Committee. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

(3) STAFF; ADMINISTRATIVE SUPPORT.—The Secretary of Health and Human Services shall, on a reimbursable basis, provide to the Committee such staff, administrative support, and other assistance as may be necessary for the Committee to effectively carry out the duties under this section.

(4) CONFLICT OF INTEREST.—The members of the Committee shall not be in violation of any Federal conflict of interest laws.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.●

By Mr. BINGAMAN:

S. 2155. A bill to provide restitution of the economic potential lost to communities dependent on Spanish and Mexican Land Grants in New Mexico due to inadequate implementation of the 1848 Treaty of Guadalupe Hidalgo; to the Committee on Energy and Natural Resources.

FAIR DEAL FOR NORTHERN NEW MEXICO ACT OF 1998

● Mr. BINGAMAN. Mr. President, today, I introduce a bill to resolve a long standing controversy between many citizens of my State of New Mexico, and their government.

In 1848, the United States entered into a treaty with Mexico to end the Mexican/American War called the Treaty of Guadalupe-Hidalgo. In that treaty, Mexico ceded an enormous tract of land that was to become the American Southwest including the State of New Mexico. In return the Treaty stipulated that the property rights of the Mexican citizens who lived in the area, and who were to become new citizens of the United States, would be protected.

We must recall that these new citizens had had a long, and sometimes ancient, connection to the land. The Native American tribal peoples who had lived there for thousands of years, had

become citizens of Spain and then Mexico. Also many of those new citizens of Spanish descent had a family heritage of living on the this land dating back 250 years to 1598, when the Spanish colonial capital in New Mexico was established at San Juan Pueblo. They had built towns and cities, churches, and vast irrigation systems for their farms.

Unfortunately, the treaty provisions protecting title to land were not well and evenly implemented. It has been fairly well documented by scholars such as Professor Malcolm Ebright at the University of New Mexico, and Professor Emeritus Michael Meyer from the University of Northern Arizona, that many people lost title to their land who should have been protected by the treaty. In some cases this was due to faulty surveying by the Surveyor General, in some cases it was due to a lack of knowledge by American Territorial Courts about how title was acquired under Spanish and Mexican law, and most egregiously people sometimes lost their land through outright fraud by government officials and land speculators.

As I said earlier, the implementation of the treaty was not uniform. In some areas property rights were fairly well adhered to, but in others legitimate titles were wiped out wholesale. A group of people that were particularly hurt in this process were the relatively poor subsistence farmers and ranchers living in northern New Mexico. These new American citizens were easy prey for land speculators. Not only were they learning a new language and legal system, but usually they did not have the financial resources to defend their property rights in the courts. In some cases, people were told that if they signed a given document that they would be assured the continued use of their land forever. However in reality, what they were signing were quit claim deeds, giving title to their land to some nefarious speculator.

The ramifications of this history have caused bitter disputes and economic hardship in northern New Mexico for generations. The issue is still relevant for many New Mexicans feel their government has an obligation to compensate them for their loss of land. In many cases they may be right.

Mr. President, after 150 years it may not be possible or practicable to revisit the thousands of title claims originally made in 1848. So much time has passed, and so many title transfers have taken place since then that the legal review could be a never ending legal maze. However, Spanish and Mexican law recognized community as well as individual land titles. Under a grant from the King of Spain or the Mexican government, whole communities had a claim on certain lands. These community land grants form a distinct, and often better documented, subset of the claims made under the Treaty of Guadalupe-Hidalgo. Given that this is a smaller, more defined group of claims, and because of they affect whole communities, it may be possible to settle these long standing claims and provide a sense of justice to people in northern New Mexico.

Last year former Representative Richardson introduced a bill, H.R. 260, to create a commission to study and recommend settlement of these claims. His successor in office, Representative Redmond has carried on this issue in his own bill, H.R. 2538. These bills have been useful in bringing the issue to national attention and I commend both of my colleagues for introducing them.

Mr. President, my bill, which I call the Fair Deal for Northern New Mexico Act, builds upon the efforts in the other body. For example, the House bill is focused on an exhaustive legal review of the various community land grant claims and whether land should be transferred back to the claimants. My bill also has a review of these claims, but acknowledges that after 150 years, that we may never be able to reach legal certainty in some cases. We may find that a claim is colorable, that it has a legal basis, but not exactly what is owed. Also, we may find that the other people in the community currently either own the land in question, or if it's federal land, they may have long standing leases on which they depend. For that reason, my bill creates a package of options for settlement of these claims with the involvement and support of the whole community that would be affected.

I won't dwell on the differences between this bill and the one in the House because I see this bill as a broadening and strengthening of that effort. Let me just run briefly what my bill would do, and my hope is that as this works its way through committee and on the floor that we'll reach an agreement with the House sponsors on legislation that will resolve this long standing legal dispute in New Mexico.

My bill has three key components: the creation of county-wide settlement committees, the reasonable but expedited time-frame, and a broad range of settlement options. First, it would create seven member settlement committees, one for each county in New Mexico in which their are these community land grant claims. To get the federal agencies actively involved in a solution to the issue, the Secretaries of Agriculture and Interior would each have a representative on these committees. The State Lands Commissioner would represent the interests of the State's educational trust fund. Finally, each county commission would appoint four representatives, at least one of which must be a Tribal member if there is an Indian Pueblo within that county, and at least one of which is a non-Indian heir to a Spanish or Mexican Land Grant.

Second, the bill tries to keep the issue on the front burner by limiting the settlement committees to a set schedule. The settlement committees would have ninety days to publish a set of guidelines on to how to document a land claim, and then people would have one year to file their claims. These committees would then have three years in which to review the claims and develop a proposed settlement to be submitted to Congress.

The whole process from creation of these committees to proposals to Congress would take about five years. I think this very important. It should be long enough to develop some solid settlement proposals, but it is a short enough time-frame that the people in New Mexico will see action before they just become frustrated.

Finally, the settlement committees would have a number of options to choose from to create a settlement that will satisfy the claims and the communities in which they are made. As with the House bill, one options would be to transfer land directly back to a particular community land grant. However, the committee might propose that federal lands be set aside for under special designations for community use, or that lands should be transferred to local municipalities to benefit everyone in the community. Further, a settlement committee could recommend that a package of economic develop grants or tuition scholarships would better meet the current needs of claimants and the community than a transfer of whatever land might be available. All of these options would be tools available to a county settlement committee to use in crafting a settlement that the people of that county would find to be fair and just.

Mr. President, it is time for the United States to respond to its citizens on this issue, to bring this controversy to closure, and to give the citizens of northern New Mexico a sense that justice has been done so that they can move forward both socially and economically without this cloud from the past hanging over them. I think this bill will move us forward towards those goals. I would like to call on the Committee on Energy and Natural Resources to hold hearings on this bill at the earliest possible time. I hope to work with the rest of the New Mexico delegation and the other members of Congress to pass good legislation regarding the issue.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2155

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Deal for Northern New Mexico Act of 1998.''

SEC. 2. PURPOSE, DEFINITIONS AND FINDINGS.

(a) PURPOSE.—

The purpose of this Act is to create a mechanism for the settlement of Spanish and Mexican land grant claims in New Mexico as claimed under the Treaty of Guadalupe-Hildalgo.

(b) DEFINITIONS.—For Purposes of this Act:

(1) TREATY OF GUADALUPE-HIDALGO.—The term ''Treaty of Guadalupe-Hidalgo'' means the Treaty of Peace, Friendship, Limits, and Settlement (Treaty of Guadalupe Hidalgo), between the United States and the Republic of Mexico, signed February 2, 1848 (TS 207; 9 Bevans 791);

(2) COMMUNITY LAND GRANT.—The term ''community land grant'' means a village, town, settlement, or pueblo consisting of land held in common (accompanied by lesser private allotments) by three or more families under a grant from the King of Spain (or his representative) before the effective date of the Treaty of Cordova, August 24, 1821, or from the authorities of the Republic of Mexico before May 30, 1848, in what became the State of New Mexico, regardless of the original character of the grant.

(3) LAND GRANT CLAIM.—The term ''land grant claim'' means a claim of title to land by a community land grant under the terms of the Treaty of Guadalupe-Hidalgo.

(4) ELIGIBLE DESCENDANT.—The term ''eligible descendant'' means a descendant of a person who—

(A) was a Mexican citizen before the Treaty of Guadalupe-Hildalgo;

(B) was a member of a community land grant; and

(C) became a United States citizen within ten years after the effective date of the Treaty of Guadalupe-Hidalgo, May 30, 1848, pursuant to the terms of the Treaty.

(5) SETTLEMENT COMMITTEE.—The term ''settlement committee'' refers to committee, or one of the county specific subcommittees as appropriate, authorized in Section 3 of this Act.

(6) RECONSTITUTED.—The term ''reconstituted,'' with regard to a valid community land grant, means restoration to full status as a municipality with rights properly belonging to a municipality under State law, including the nontaxability of municipal property (common lands) and the right of local self-government.

(c) FINDINGS.—Congress Finds the Following:

(1) New Mexico has a unique and complex history regarding land ownership due to the substantial number of Spanish and Mexican land grants that were an integral part of the colonization of New Mexico before the United States acquired the area in the Treaty of Guadalupe-Hidalgo.

(2) Under the terms of the Treaty of Guadalupe-Hidalgo, these land grant claims were recognized as valid property claims under United States' law.

(3) Several studies, including the New Mexico Land Grant Series published by the University of New Mexico, have documented that the Treaty of Guadalupe-Hidalgo in regards to these land grant claims in New Mexico was never well implemented. Whether because of a lack of knowledge of Spanish land law on the part of the judicial system in the then new Territory of New Mexico, whether because of inadequate or conflicting documentation of these claims, or whether it was due to sharp legal practices, many of the former citizens of Mexico, and then new citizens of the United States, lost title to lands that had been guaranteed to them by treaty.

(4) Following the United States' war with Mexico, the economy of the Territory of New Mexico was dependent on the use of land resources, and that held true for much of this century as well. When the land grant claimants lost title to their land, the predominantly Hispanic communities in northern New Mexico lost a keystone to their economy. The effects of this loss have had long lasting economic consequences and are in part the cause that these communities remain some of the poorest in the United States.

(5) The history of the implementation of the Treaty of Guadalupe-Hidalgo has been a source of continuing controversy for generations and has left a lingering sense of injustice in the communities in northern New Mexico, which has periodically lead to armed conflicts.

(6) The government of the United States has an obligation to try to find an equitable remedy for the inadequate implementation of the Treaty of Guadalupe-Hidalgo and the consequences that has had on the communities and people of New Mexico. This should be done as expeditiously as possible. However, reconstructing the one hundred and fifty year history of land title claims and transfers in these communities is likely to prove lengthy and costly. In some cases it may never be possible to adequately reconstruct the title history.

(7) The Secretary of the Interior has had a experience in administratively developing settlement packages to resolve large and complex Tribal water rights claims as an alternative to lengthy and expensive litigation. This experience may be invaluable in resolving the large, complex, and sometimes conflicting Spanish and Mexican land grant claims in northern New Mexico.

(8) The history of colonial Spanish America, the system of land distribution under Spanish and Mexican law, and the subsequent impacts to that system following the transfer of territory from Mexico to the United States under the Treaty of Guadalupe-Hidalgo is a requisite body of knowledge in determining an appropriate settlement of land grant claims. It is also an integral part of the national history and culture of the United States of America and, as such, deserves formal recognition and interpretation by our institutions of historical preservation.

SEC. 3. CREATION OF SETTLEMENT COMMITTEES.

(A) Within one hundred and eighty (180) days of enactment of this Act, the Secretary of the Interior working through the Bureau of Land Management and the Bureau of Indian Affairs, and the and the Secretary of Agriculture working through the Forest Service are hereby authorized and directed to establish a ''Settlement Committee'' to develop comprehensive settlements for land grant claims on a county by county basis.

(b) The Settlement Committee will be comprised of separate subcommittees for each county in which there are land grant claims in New Mexico.

(c) Each county subcommittee shall be comprised of seven members including: (1) a representative of the Secretary of the Interior; (2) a representative of the Secretary of Agriculture; (3) a representative of the State Commissioner of Public Lands; and (4) four residents of the particular county in question. The four county representatives are to be appointed their county commissions: *Provided,* That in counties with Federally recognized Native American Indian Tribes that at least one county representative shall be an enrolled member of a tribe whose reservation pueblo boundaries come within that county: *Provided further,* That at least one county representative shall be an eligible descendent who is not an enrolled member of a Native American Indian Tribe.

(d) Each member shall be appointed for the life of the Settlement Committee. A vacancy in the Settlement Committee shall be filled in the manner in which the original appointment was made.

SEC. 4. SUBMISSION OF LAND GRANT CLAIMS.

(a) Within ninety (90) days of the creation of the settlement committee it shall establish a set of guidelines for the submission of land grant claims, and publish these guidelines within papers of general circulation in each of the counties in New Mexico.

(b) Land grant claims must be submitted to the appropriate county settlement committee within one year of the publication of the guidelines.

SEC. 5 REVIEW AND SETTLEMENT PACKAGE.

(a) The settlement committee for each county shall review all of the submitted claims in the county and, based on the documentation at its disposal, make an initial determination concerning their potential validity including: possible past conveyances, the accuracy of the boundaries of the land claimed, and the number of eligible heirs affected.

(b) Upon completing this review, the settlement committee shall develop a proposed settlement package in satisfaction of land grant claims within that county. In creating the settlement package, the settlement committee shall take into account: the degree of certainty with which it has determined that various claims are valid, the impacts, including economic and social impacts, that any unfulfilled land grant claims may have had on the communities within that county, the relative benefits of various settlement options on those communities, and whether there is a legal entity that can accept settlement. The elements of a proposed settlement package may include, but are not limited to:

(1) Restoration of lands to a given land grant community or communities;

(2) Reconstitution of a given land grant community or communities;

(3) The setting aside of certain lands for communal use for fuel wood, building materials, hunting, recreation, etc. These lands could be set aside as special managerial units within existing federal land management agencies or transferred to local county, tribal, or municipal, governments;

(4) Trust funds for scholarships or home and business loans; or

(5) Land for commercial use with the proceeds to be deposited into the trust funds.

(c) The settlement committee shall complete its review and proposed settlement package within three years of the deadline for submission of land grant claims under this Act, and submit them in a report to the Senate Committee on Energy and Natural Resources and the Senate Committee on Indian Affairs, and to the House Resources Committee. Any proposal that require action by the government of the State of New Mexico shall be submitted to the Governor, to the Speaker of the State House of Representatives, and to the President Pro Tem of the State Senate for New Mexico.

SEC. 6. ADMINISTRATION OF THE SETTLEMENT COMMITTEE.

(a) To complete its tasks the settlement committee may use a variety of methods to gather information and to build community consensus on the form of a proposed settlement package, including: the use of town meetings, holding formal hearings, the solicitation of written comments, and the use of mediators trained in alternative dispute resolution methods. The settlement committee is also authorized to hire consultants as it may choose for historical, economic, and legal analysis. In its efforts to develop a consensus on a settlement package, the Settlement Committee is not subject to the Federal Advisory Committee Act (Pub. L. 92–462; 5 U.S.C. Ap. 2 §1).

(b) GIFTS, BEQUESTS, AND DEVISES.—The Settlement Committee may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Settlement Committee. Gifts, bequests, or devises of money and proceeds from sales of other property received as

gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Settlement Committee. For purposes of the Federal income, estates, and gift taxes, property accepted under this subsection shall be considered as a gift, bequest, or devise to the United States.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Settlement Committee, the Administrator of General Services shall provide to the Settlement Committee, on a reimbursable basis, the administrative support services necessary for the Settlement Committee to carry out its responsibilities under this Act.

(d) IMMUNITY.—The Settlement Committee is an agency of the United States for the purpose of part V of title 18, United States Code (relating to the immunity of witnesses).

(e) COMPENSATION.—Members of the Settlement Committee shall each be entitled to receive the daily equivalent of level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Settlement Committee.

SEC. 7. SPANISH LAND GRANT STUDY PROGRAM.

(a) The Secretary of the Smithsonian Institution and the Settlement Committee working in conjunction with the University of New Mexico, and Highlands University shall establish a Spanish Land Grant Study program with a research archive at the Oñate Center in Alcalde, New Mexico. This program shall be designed to meet the requirements of the Smithsonian Institution's Affiliated Institutions Program.

(b) The purposes of the Spanish Land Grant Study Program are to assist the Settlement Committee in the performance of its activities under section 5, and to archive and interpret the history of land distribution in the southwestern United States under Spanish and Mexican law, and the changes to this land distribution system following the transfer of territory from Mexico to the United States under the terms of the Treaty of Guadalupe-Hidalgo in 1848.

SEC. 8. TERMINATION.

The Settlement Committee shall terminate on 180 days after submitting its final report to Congress under section 5.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for each of the fiscal years 1999 through 2003 for the purpose of carrying out the activities of the Settlement Committee created in section 3, and the Spanish Land Grant Study Program created section 7.●

By Mr. BOND (for himself, Mr. GRASSLEY, Mr. LOTT, Mr. BREAUX, Mr. BURNS, Mr. MACK, Mr. BINGAMAN, Mr. FRIST, Mr. MURKOWSKI, Mrs. MURRAY, Mr. ROBERTS, Mr. HOLLINGS, Mr. DODD, Mr. FAIRCLOTH, Ms. COLLINS, Mr. JEFFORDS, Mr. THOMAS, Mr. D'AMATO, Mr. HATCH, Mr. SHELBY, Mr. ASHCROFT, Mr. KEMPTHORNE, Mr. ROBB, Mr. BAUCUS, Mr. CLELAND, Mr. CRAIG, and Mr. SANTORUM):

S.J. Res. 50. A joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the Medicare and Medicaid programs; to the Committee on Finance.

RESOLUTION DISAPPROVING OF HCFA'S SURETY BOND RULE

Mr. BOND. Mr. President, today I introduce a measure on behalf of myself, Mr. BAUCUS, Mr. GRASSLEY, and others which sends a strong message to the Health Care Financing Administration (HCFA) that the United States Senate disapproves of the agency's recent rule regarding surety bond requirements for home health agencies.

The surety bond regulation, coupled with HCFA's implementation of the Interim Payment System (IPS) for home health, are crippling the ability of our Nation's home health agencies to provide high quality care to our Nation's seniors and disabled.

Over this past month alone, in St. Louis, Missouri, the two largest home health providers decided to get out of the home health business—leaving hundreds of elderly and disabled patients searching for a new provider. The invaluable, dedicated services provided by the largest independent provider in St. Louis , the Visiting Nurses Association (VNA), will no longer be realized by the approximately 600 home care patients the agency has served.

It is regrettable that a government bureaucracy is forcing a home health agency, that has served the St. Louis area for 87 years, out of the home health care business.

The Balanced Budget Act of 1997 requires that all Medicare-participating home care agencies hold surety bonds in an amount that is not less than $50,000. This provision was modeled after a successful Florida Medicaid statute which imposes surety bonds on home care providers as a way of ensuring that only reputable businesses entered Florida's Medicaid program.

This needed and modest idea, however, has been severely distorted by HCFA. HCFA's surety bond rule deviates from Florida's program in two major ways:

First, the Florida program requires a $50,000 bond. HCFA's rule requires the bond amount to be the greater of $50,000 or 15 percent of the home care agency's previous year's Medicare revenues.

Since HCFA issued its initial rule back in January of 1998, constituents in my home State have reported numerous problems in securing these bonds. These reputable individuals inform me that most bond companies are refusing to sell home care bonds under the regulation's requirements. Those few companies that are selling bonds are requiring backup collateral equal to the full face value of the bond, or personal guarantees of two or even three times the value of the bond.

Second, the Florida program requires only new home care agencies to secure these bonds. Agencies with at least one year in the program and with no history of payment problems were exempted from the bond requirement. HCFA's rule, however, requires all Medicare-participating home care agencies to hold bonds, regardless of how long an agency has been in Medicare and regardless of the agency's good Medicare history. Further, HCFA's rule requires every home care agency to purchase new surety bonds every year.

HCFA's rule is outrageous. These requirements and costs are unaffordable, especially for the smaller, freestanding home health agencies. HCFA's surety bond regulations threaten the existence of many small business home health providers and the essential services they provide to the most vulnerable and most frail of our society.

The surety bond requirement reflects HCFA's attitude that all Medicare providers are suspect. Rather than keeping unscrupulous providers out of the home health business, HCFA's rule will penalize and put many decent home health agencies out of business.

In promulgating this rule, HCFA did not consider the long-standing reputation of most home health agencies, their years of compliance with Medicare's regulations, or their history of managing and avoiding overpayments from the government. These providers have worked long and hard within the convoluted Medicare program, have abided by the rules and regulations, and have been subjected to numerous audits by fiscal intermediaries.

HCFA's careless disregard, which has already put many conscientious law-abiding companies out of business, must be dealt with immediately. It is especially incomprehensible when the small businesses at risk provide a service so valued by the disabled and older Americans who receive it.

On Tuesday, June 8, the Regulatory Fairness Board for Region VII held a public meeting in Frontenac, Missouri, a suburb of St. Louis. My Red Tape Reduction Act of 1996 created ten Regional Fairness Boards to be the eyes and ears of small business, collecting comments from small businesses on their experience with Federal regulatory agencies. The Ombudsman, created under the same law, is to use these comments to evaluate the small business responsiveness of agency enforcement actions.

According to Scott George, a small business owner from Mt. Vernon, Missouri who serves on the Region VII Fairness Board, this particular meeting of the Fairness Board was dominated by testimony from smaller, freestanding home health care agencies that will be driven out of business by the HCFA regulations. They testified that more than 1,100 home health care providers nationwide have already closed their doors this year. Mr. George noted that every company that testified before the Region VII Fairness Board said they would be driven out of business by year-end. One couple traveled from Michigan to Missouri to testify that they will be out of business by the time of the Regional Fairness Board for their area holds a hearing absent relief from the HCFA regulations.