EXTENSIONS OF REMARKS

TRIBAL SELF-GOVERNANCE AMENDMENTS OF 1997

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, June 7, 1997

Mr. MILLER of California. Mr. Speaker, today I am introducing the Tribal Self-Governance Amendments of 1997. I am pleased to have the chairman of Resources Committee, Representative DON YOUNG, as an original cosponsor of this important measure, and similarly welcome Congressmen DALE KILDEE, ENI FALEOMAVAEGA, and PATRICK KENNEDY as additional cosponsors.

The Tribal Self-Governance Amendments of 1997 establish a permanent self-governance program within the Department of Health and Human Services under which American Indian and Alaska Native tribes may enter into compacts with the Secretary for the direct operation, control, and redesign of Indian Health Service [IHS] activities. A limited number of Indian tribes have had a similar right since 1992 under title III of the Indiana Self-Determination and Education Assistance Act [the Act]. Title III contains authorization for a self-governance demonstration project within the IHS. And all Indian tribes have had a similar right to contract and operate individual IHS programs and functions under title I of the act since 1975, so called ''638 contracting''.

In brief, our legislation expands the number of tribes who can participate in self-governance, makes it a permanent fixture within the Department, allows but does not compel the Secretary to negotiate self-governance compacts with Indian tribes for programs outside of the IHS on a demonstration project basis, and incorporates a number of Federal contracting laws and regulations that have worked well for Indian tribes and the Department in the past.

The legislation is modeled on existing self-governance legislation for tribal operation of programs within the Department of the Interior, as well as certain contracting terms incorporated in title I of the act. The legislation has had significant input and review by Indian tribes who have worked on this legislation for almost a year and have met twice, once in Las Vegas and once in St. Paul. Their help and patience has been considerable.

What the self-governance program does is give Indian tribes who met certain criteria—basically they have to have experience in government contracting, have clean books, and demonstrate management capability—the right to take over the operation of Indian Health Service functions, including the funds necessary to run them. The aim of self-governance is to remove the often needless and sometimes harmful layers of Federal bureaucracy that dictate Indian affairs. By giving tribes direct control over Federal programs run for their benefit and making them directly accountable to their members, Congress has enabled Indian tribes to run programs more efficiently and more innovatively than Federal officials have in the past. And, allowing tribes to run these programs furthers the congressional policy of strengthening and promoting tribal governments.

Self-governance is an evolution of the original 638 contracting law. Self-governance stands for the proposition that Indian tribes are legitimate sovereigns, fully capable of managing their own affairs and functioning as principled governments. Self-governance rejects the assumption that Indian tribes are incapable of managing their own affairs and thus seeks to reduce the role and presence of Federal officials. Self-governance recognizes that Indian tribes care for the health, safety, and welfare of their own members as well as that of non-Indians who either live on their reservations or conduct business with the tribes and are thus committed to safe and fair working conditions and practices.

The following are a few of the areas in which self-governance differs from 638 contracting law. Whereas a tribe choosing to assume programs with 638 contracts must execute a different contract for each program, self-governance allows the tribes and the IHS to execute just one large compact. Whereas a tribe with multiple 638 contracts cannot move funds from one program to another based on need or merit, self-governance permits tribes to shift funds where justified. Where 638 contracts limit a tribe's ability to redesign programs, self-governance compacts allow such redesign.

A brief section-by-section description follows:

101. Short Title. Tribal Self-Governance Amendments of 1997.

102. Findings. Self-Governance has worked well as a demonstration project and is in keeping with the federal trust responsibility and government-to-government relationship

103. Policy. Statement of Congressional policy calling for Dept. of Health and Human Services to promote Self-Governance program.

104. Creation of Title V of the Indian Self-Determination Act. As set forth below.

105. Establishment. Creates the Self-Governance program with the Department.

502. Definitions. Allows Indian tribes to join together to form consortia for purposes of compacting under the Act.

503. Selection of Tribes. Grandfathers in all tribes now participating in demonstration project. Allows for up to 50 new tribes a year to join the Self-Governance program. Requires that, in order to be eligible, a tribe must have completed a planning phase, passed a resolution requesting participation in the program, and proven that it has the financial stability and management capability to run a Self-Governance Program.

504. Compacts. Describes a Self-Governance compact between the Secretary and an Indian tribe, setting forth the general terms of agreement.

505. Funding Agreements. Describes the detailed funding arrangement by which the Secretary pays the tribe its share of funds necessary to run its portion of the IHS programs. Allows the Secretary to negotiate demonstration projects with Indian tribes for the operation of non-IHS programs within the Department but does not compel him to.

506. General Provisions. Describes the general provisions of the compacts and funding agreements. Includes provisions for audits, cost principles, and record keeping. Allows tribes with compacts to redesign IHS programs. Allows tribes to retrocede compacted programs back to the IHS. Allows tribes who formed a consortium to withdraw from the consortium.

507. Provisions Relating to Secretary. Allows the Secretary to impose additional reporting requirements on Indian tribes as long as they are not burdensome. Allows the Secretary to take back programs from a tribe if he finds that the tribe's operation of the program is endangering the health or welfare of people or that the tribe is mismanaging the program. Provides for a hearing on the record in such cases. Provides that when negotiating compact terms, if Secretary fails to reject tribe's offer, that offer is deemed accepted. Allows Secretary to reject tribe's offer if he finds that tribe's request exceeds allowable funding, the request is for operation of a function that cannot be delegated to tribes, or the tribe is not capable of running the program. Requires the Secretary to negotiate in good faith. Prevents the Secretary from waiving or diminishing the trust responsibility.

508. Transfer of Funds. Provides for prompt payment to tribes of funds necessary to run programs under Self-Governance. Provides that funds are available until expended. Requires Secretary to provide tribes with indirect costs. Allows Secretary to reduce amount of funds specified in contract when Congress reduces IHS appropriations. Allows tribes the same access to buildings, property and other resources that the federal government had. Allows tribes to retain interest on funding in keeping with present regulations.

509. Construction Projects. Exempts tribal construction compacts from Procurement Act and Federal Acquisition Regulations in keeping with existing Self-Governance law but requires compacts to incorporate health and safety standards.

510. Federal Procurement Laws. Exempts all tribal compacts from federal contracting laws in keeping with existing Self-Governance law.

511. Civil Actions. Provides tribes with access to federal courts in events of disputes.

512. Facilitation. Requires the Secretary to interpret laws and regulations in a manner that further Self-Governance compacting. Allows the Secretary to waive regulations where permitted by law. Allows the Secretary to donate excess property to tribes. Encourages the states to enter into agreements with tribes that supplement their Self-Governance compacts.

513. Budget Request. Requires that the Presidential budget request identify funding necessary to fund Self-Governance compacts, including the present level of funding for each tribe.

514. Reports. Provides for an annual Secretarial report to Congress on status of Self-Governance program.

515. Disclaimers. Provides that nothing in the Act shall be construed as diminishing the trust responsibility in any way. Exempts tribes from National Labor Relations Act as governmental entities in keeping with N.L.R.B. decisions.

516. Application of Other Sections. Incorporates parts of Title I (''638 contracting'') including penalties for criminal activities, wage and labor standards, liability insurance, retention of federal employee rights and benefits by tribal employees, leasing of tribal facilities, funding of indirect costs, preservation of tribal sovereign immunity, and Federal Tort Claims Act coverage.

517. Regulations. Requires the Secretary to publish draft regulations to carry out this Act within one year of enactment. Requires negotiated rulemaking with Indian tribes. Provides sunset clause eliminating Secretary's rulemaking authority if final regulations are not published within one year and nine months after the date of enactment.

518. Appeals. Sets the standard for burden of proof in cases of disputes. Provides that the Secretary bears the burden of proof of demonstrating by clear and convincing evidence his decisions.

519. Appropriations. Authorizes such sums as necessary.

In sum, self-governance is a program that represents that next step beyond 638 contracting. As a demonstration project in the IHS it has been a true success. The time has come to transform the demonstration project into a permanent program. I and my colleagues cosponsoring this measure urge support and passage of this measure.

CONGRATULATIONS ROBERTSHAW

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, June 7, 1997

Mr. GORDON. Mr. Speaker, today I rise to pay tribute to the Robertshaw Corp. of Carthage, TN upon their receiving certification as a Quality System Requirements—or QS–9000—corporation.

This certification is for a system devised by the big three auto companies, General Motors, Chrysler, and the Ford Corp. It's purpose is to standardize reference manuals, reporting formats and technical nomenclature. Certification by this Quality System Requirements allows a supplier to produce parts for these auto companies. Later, the vice presidents of the Big Three auto manufacturers directed a task force to further harmonize the fundamental supplier quality systems manuals and assessment tools. The results of this task force is a system of certification we now know as QS–9000.

QS–9000 has been implemented in the spirit of continuous improvement. That is why exceptional suppliers such as the Robertshaw Corp. have been able to play a vital part in suggesting how the implementation of QS–9000 can be improved.

This award is indicative of the dedication the employees of Robertshaw have toward ensuring customer satisfaction. The Robertshaw Corp. has earned this designation by working toward reducing waste and reducing cost while insuring only the highest of standards are applied to American automobile production.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999

SPEECH OF

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 4, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and for other purposes:

Mr. CUMMINGS. Mr. Chairman, I thank the gentlewoman from Texas for taking the lead on the very critical issue of human rights progress in Ethiopia.

Mr. Chairman, I rise today to speak about the deteriorating human rights situation in Ethiopia.

Almost exactly 6 years ago, the brutal Mengistu regime in Ethiopia, notorious for having one of the bleakest human rights records on the continent, fell.

The governance of the country was taken over by a coalition of ethnic based insurgency groups under the umbrella of the Ethiopian People's Revolutionary Democratic Front [EPRDF], thus ending 15 years of terror.

At the time, there was much hope that the country was finally entering a period of democracy and respect for human rights.

Sadly, the removal of the Communist military dictatorship of Mengistu Haile Mariam in May 1991, has not yielded the fruits of a functioning democracy.

The Ethiopian people are not benefiting from the so-called peace dividends of the new world order.

Instead, the country remains locked in a Marxist time warp and saddled with a minority-based ethnic dictatorship.

The Government continues to divide the nation's peoples into ethnic-based Bantustans, or enclaves, each purposely pitted against the other with the goal of facilitating the dictatorial regime.

This ploy has endangered the Ethiopian people with the inevitable consequences of civil war with repercussions far worse than the tragedies that transpired in Bosnia and Rwanda.

These ethnic enclaves may be taken over by Moslem fundamentalist groups. There is a danger that Ethiopia, or parts of it could turn into an Iran-like regime.

Until the current government took over, Ethiopia was one of the few stable, democratic countries in Sub-Saharan Africa.

Now, all the democratically hostile countries surrounding Ethiopia, such as the Sudan, Somalia, Iraq, and Iran are seeking to exploit the chaotic situation in the country by exerting their negative influences.

Chaos is likely to continue to reign as long as the ethnocratic government is allowed to continue to monopolize political, economic, military and police powers, and to pursue its policies of setting Ethiopians against each other.

Ethiopians are disturbed that Western support is bolstering the misrule of Ethiopia by an ethnic minority and against the universally accepted principles of human rights, majority rule, and representative democracy.

Troubling accounts of repression and human rights violations by the new government have been emerging.

I would like to share with you just one story by way of illustration.

Mr. E is a 20-year-old mechanic of Amharic ethnicity. Like so many of their fellow citizens, Mr. E's family had suffered greatly under the Mengistu government.

His older brother had been arrested and viciously tortured for opposition activities and eventually fled the country.

Mr. E's father had been arrested on many occasions for questioning. The family was relieved when the regime fell and looked forward to peace.

After graduating from high school in 1994, Mr. E joined the All Amhara People's Organization, a major opposition group.

In February 1995, Mr. E was stopped on the street by police for a random search. When the police found Mr. E's party identification, they arrested him and locked him in a tiny brick cell where he was held with two other men incommunicado and without charge for 8 months.

Though he was only 18 and had just joined the organization, guards questioned Mr. E about the long-term plans of the All Amhara People's Organization.

Mr. E was fed only small amounts of bread and water; no sanitary provisions were made. Within a short time his health began to deteriorate.

By the end of 8 months, Mr. E was so ill that the guards decided to allow his parents to take him home. As he was leaving the prison, Mr. E finally received notice of the charges against him and a summons to appear in court.

As Mr. E recuperated at home, his neighbors reported that they were being questioned by unknown men in civilian clothes as to Mr. E's activities and whether he was receiving any visitors. Fearing that he would once again be arrested and held indefinitely, Mr. E fled Ethiopia and arrived in the United States in February 1996.

Like Mr. E, thousands of individuals opposed to the current government, particularly journalists, academicians, and opposition party officials were being harassed as they attempt to express their views on the critical issues facing the country.

The Ethiopian Government continues to deny political detainees both procedural and substantive due process of the law and has made a mockery of the administration of justice.

I would like to call particular attention to the plight of three political prisoners—Dr. Asrate Woldeyes, Dr. Taye Semayat, and Mr. Abera Yemane Ab.

At the behest of the Ethiopian-American community here in the United States, I have personally urged our State Department to intercede on behalf of these prominent political prisoners in Ethiopia.

I have also communicated my concerns directly to the Ethiopian Government. Thus far, I am sorry to report, no progress has been made.

But, we must not relinquish our struggle against the relentless assault on the human rights of the Ethiopian peoples.

We must urge the Ethiopian Government to cease the ethnic discrimination, foster positive relations between the various ethnic groups