

AMENDMENT NO. 239

(Purpose: To provide relief to agricultural producers who granted easements to, or owned or operated land condemned by, the Secretary of the Army for flooding losses caused by water retention at the dam site at Lake Redrock, Iowa, to the extent that the actual losses exceed the estimates of the Secretary)

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment to S. 672 that I send to the desk be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Is there objection?

Mr. BYRD. I have no objection to reporting of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRASSLEY, proposes an amendment numbered 239.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . RELIEF TO AGRICULTURAL PRODUCERS FOR FLOODING LOSS CAUSED BY DAM ON LAKE REDROCK, IOWA.

(a) ELIGIBILITY.—To be eligible for assistance under this section, an agricultural producer must—

(1)(A) be an owner or operator of land who granted an easement to the Federal Government for flooding losses to the land caused by water retention at the dam site at Lake Redrock, Iowa; or

(B) have been an owner or operator of land that was condemned by the Federal Government because of flooding of the land caused by water retention at the dam site at Lake Redrock, Iowa; and

(2) have incurred losses that exceed the estimates of the Secretary of the Army provided to the producer as part of the granting of the easement or as part of the condemnation.

(b) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Army shall compensate an eligible producer described in subsection (a) for flooding losses to the land of the producer described in subsection (a)(2) in an amount determined by the Federal Crop Insurance Corporation.

(2) REDUCTION.—If the Secretary maintains a water retention rate at the same site at Lake Redrock, Iowa, of—

(A) less than 769 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 10 percent;

(B) not less than 769 feet and not more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 7 percent; and

(C) more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 3 percent.

(c) CROP YEARS.—This section shall apply to flooding losses to the land of a producer described in subsection (a)(2) that are incurred during the 1997 and subsequent crop years.

Mr. STEVENS. Mr. President, I do ask that we consider this amendment at this time, and I further ask that upon its adoption it be placed in the bill that's just been passed as this action was completed prior to voting upon advancing this bill to third reading.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD addressed the chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Will the distinguished manager of the bill explain why this amendment is being called up following the final action on the bill?

Mr. STEVENS. Mr. President, by mistake this bill was deemed to have been objected to, and upon review after the bill, S. 672, was advanced to third reading, it was determined that the objection had not in fact been placed by the Senator that was purported to have placed an objection. It has been cleared on both sides, and it is matter now of trying to correct it and get this amendment of Senator GRASSLEY back to where it should have been adopted prior to the advancing of this bill to third reading.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska. I have no objection to the action requested.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 239) was agreed to.

Mr. STEVENS. Mr. President, I ask that this bill, S. 672, be postponed and set aside until the House bill arrives and this unanimous consent agreement may be fulfilled.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill has been set aside.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Has a quorum been put in place, Mr. President?

The PRESIDING OFFICER. No quorum call has been placed.

MORNING BUSINESS

Mr. LOTT. Then, Mr. President, I thank my colleagues for their cooperation on the agreement we just reached on S. 4, and I now ask there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BYRD, who will speak on Mother's Day.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, I would like to report to the Senate that the Committee on Rules and Administration is about to embark on a bipartisan

investigation into allegations that fraud, irregularities, and other errors, affected the outcome of the 1996 election for U.S. Senator from Louisiana—the first such Senate investigation into vote fraud since the early 1950's.

A review of the basis for this investigation and the developments to date is an obligation I have as chairman.

On November 5, 1996, Ms. MARY LANDRIEU and Mr. Louis "Woody" Jenkins competed in a very close election in which Ms. LANDRIEU was declared the victor by Louisiana State officials, by a margin of 5,788 votes out of approximately 1.7 million total votes cast. This margin represented a percentage difference of only 0.34 percent, one of the closest contested elections in U.S. Senate history.

On December 5, 1996, Mr. Jenkins filed a petition with the U.S. Senate asking that the election be overturned because of vote fraud and irregularities which he believed affected the outcome of the election. Along with an amended petition, Mr. Jenkins filed supporting evidence with the Senate on December 17.

Senator LANDRIEU filed a response to the petition on January 17, 1997. On February 7, 1997, Mr. Jenkins then submitted an answer to Senator LANDRIEU's filing.

In accordance with Senate precedent, Ms. LANDRIEU was seated "without prejudice" as the Senator from Louisiana on January 7, 1997, with all of the privileges and authority of a U.S. Senator. Majority Leader LOTT quoted former Majority Leader Robert Taft in defining the term "without prejudice" when Senator LOTT spoke on the floor on January 7:

[T]he oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest and without prejudice to the right of anyone protesting or asking expulsion from the Senate to proceed.

The U.S. Constitution provides that the Senate is—and I quote from article I, section 5—"the Judge of the Elections, Returns, and Qualifications of its own Members. * * *" The U.S. Supreme Court has reviewed this Constitutional provision on several occasions and held in the 1928 case of *Reed et al. v. The County Comm'rs of Delaware County, Penn.* [277 U.S. 376, 388 (1928)]:

[The Senate] is the judge of elections, returns and qualifications of its members. . . It is fully empowered, and may determine such matters without the aid of the House of Representatives or the Executive or Judicial Department.

In discussing the responsibilities of the Senate, Senator Robert C. BYRD, who has been a member of the Committee on Rules and Administration since 1963, stated on the floor of the Senate on January 15, 1975, as part of the debate on the New Hampshire contested election:

. . . The Constitution of the United States places in this body the responsibility of being the sole judge of the elections, returns, and qualifications of its own members. Article 1, section 5, does not say that the Senate may be the judge; it says the Senate *shall* be the judge.

. . . The Constitution vested in this body not only the power but the *duty* to judge, when there is a challenged election result involving the office of U.S. Senator. [Congressional RECORD Vol. 121, Part 1, page 440. (emphases added).]

And indeed, the Senate has taken this constitutional responsibility very seriously, handling approximately 100 contested cases over its 208-year history. Under the current Senate Rules, responsibility for developing the facts and recommendations for the full Senate in contested elections lies with the Committee on Rules and Administration.

Following the precedent of the Huffington versus Feinstein contest in 1995, I and ranking member, Mr. FORD, retained two outside counsel who are experts in the field of election law: Mr. William C. Canfield III, and Mr. Robert F. Bauer. These are the same two attorneys who assisted the committee in the Huffington contest.

Senator FORD and I requested that these experts review the pleadings and provided the following guidance:

We request a written analysis of the sufficiency of the petition, based on the precedents and rules of the Senate, with specific reference to any documentation submitted by Mr. Jenkins or Ms. Landrieu relevant to the petition. The opinion should focus on the question of whether the petition is subject to dismissal without further review, or requires additional review or investigation, and, if so, the scope and structure of such review or investigation.

On April 8, 1997, these two counsel submitted a joint report which, in summary, recommended that the committee conduct "a preliminary, limited investigation into the sufficiency of claims in three areas, and the dismissal of claims in four areas." The areas counsel recommended further review of were: vote buying, multiple voting, and fraudulent registration.

Mr. Canfield and Mr. Bauer then appeared before the committee, in open session, on April 10 to describe their review and recommendations, and to answer questions from the members of the Rules Committee.

On April 15, 1997, again in open session, Mr. Jenkins and attorneys for Senator LANDRIEU made presentations to the committee which laid out their respective views of the contest, the allegations made and evidence presented, and the standards of pleading and proof required to warrant further committee action.

As I stated at those hearings, I believe the counsel's report is a valuable contribution to the committee's evaluation of the contest. Nevertheless, it is important to remember that these lawyers were not asked to conduct an investigation, and they did not do so. Rather, they reviewed and analyzed only the petition and facts submitted by both Mr. Jenkins and Senator LANDRIEU.

When the committee met on April 17, 1997, to determine a further course of action, I advised my colleagues that I agreed with our counsel that an inves-

tigation was warranted. Indeed, I believed that Senate precedent dictated that an investigation be conducted. It was also my opinion that the committee's investigation should:

First, not be limited to specific areas which might preclude investigation of other potential sources of evidence; and

Second, should involve the use of attorneys with investigative experience to conduct an initial investigation in Louisiana within approximately a 45-day period.

In furtherance of these objectives, the committee met on April 17, and I offered a committee motion to authorize such an investigation. After several amendments, the committee authorized the chairman, in consultation with the ranking member to conduct an investigation,

* * * into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the State of Louisiana in 1996.

Since the committee hearing of April 17, I have worked with Senator FORD toward jointly selecting—as required by 2 U.S.C. 72a(1)(3)—the consultants that would assist the committee in the conduct of its investigation. The contracts hiring these consultants were signed by me and Senator FORD on May 7.

The investigative team will be headed by Richard Cullen, a former U.S. Attorney in Virginia, and George Terwilliger, also a former U.S. Attorney and later Deputy Attorney General of the United States, both with Republican affiliations, of the law firm McGuire Woods Battle & Boothe. They will be assisted by several of their firm's colleagues, including Jim Dyke, former top official for Vice President Walter Mondale and Gov. Doug Wilder, Bill Broddaus, former Democratic Attorney General of Virginia, and Frank Atkinson, former counsel to Gov. George Allen, comprising a well-experienced, bipartisan team who will take direction from me.

Participating fully in the investigation—pursuant to a protocol establishing the basic procedures under which all counsel will conduct the investigation—will be a second team of attorneys selected by Senator FORD and headed by Robert Bauer and John Hume of the law firm Perkins Coie, with Democrat affiliations.

This protocol, which was jointly drafted by the two teams, includes procedures for subpoenaing witnesses and documents, and conducting interviews and taking depositions. It establishes confidentiality procedures to protect the integrity of the investigation.

As Senator FORD and I worked toward the selection of our consultants and a joint investigation, I also spoke with the Governor of Louisiana, Mike Foster, who has assured the fullest co-

operation with the Senate's investigation. And, committee staff is coordinating with the Federal Bureau of Investigation and the General Accounting Office seeking a detail of personnel to assist the committee.

The Senate's investigation in Louisiana is about to begin. Records will shortly be requested from the State, and the teams of counsel will go down to Louisiana next week to establish a local headquarters and make initial coordination with appropriate State and local officials, and prepare for witness interviews.

Mr. President, in the course of one's career as a Senator there are responsibilities you must perform. I did not seek this task, but I will truly and faithfully discharge a duty I have been given as chairman of the Rules Committee.

I have but one goal: to see that my work is performed in keeping with the tradition of the Senate in past cases and to give the full Committee my honest judgement of the established facts, and so that the Committee might give to the Senate its honest judgement of these facts, respecting the Senate's duty under article 1, Section 5 of the Constitution of the United States.

It is my intention that this investigation will determine the existence, or absence, of that body of credible fact that would justify the Senate in making a determination that fraud or irregularities or other errors, in the aggregate, did or did not, affect the outcome of the 1996 election for U.S. Senator in the State of Louisiana—thereby fulfilling the Senate's constitutional duty of judging the results of that election.

COMMENDING GIRL SCOUT GOLD AWARD RECIPIENTS

Mr. FORD. Mr. President, I want to draw special attention today to five young women from northern Kentucky. These five young women from the Licking Valley Girl Scout Council are recipients of the Girl Scout Gold Award—the highest achievement a Girl Scout can earn. Each one has demonstrated outstanding achievements in the area of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A. serves over 3.5 million girls and has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. Recipients of the award have not only earned patches for the Senior Girl Scout Leadership Award, the Senior Girl Scout Challenge, and the Career Exploration Pin, but also designed and implemented a Girl Scout Gold Award project.

But perhaps most important, these five Gold Award recipients have made a commitment to community that should not go unrecognized.

Kelly Buten, Mary Jane Hendrickson, Alyssa Hensley, Mandy Radle, and Becky THOMAS have put an extraordinary amount of work into earning