

give up his or her rights. That should not be allowed. The Reed Sessions amendment corrects that. The projections in the Reed Sessions amendment were also developed in close consultation with the White House.

Our bill further provides that if a motion to dismiss is filed and the judge dismisses it, the judge can assess penalties against a creditor who filed the motion if the motion wasn't substantially justified. So we want to make sure that creditors who would abuse some of their power in court would not—if it was not substantially justified, if their position was not substantially justified, then action should be taken against them, and that is entirely fair as well. So we have a fair system with tough penalties for creditor abuses.

Now, the amendment of Senator from New York will return to the system we have today. Under current law, creditors can't file motions when a chapter 7 case is abusive or improper. And every observer acknowledges that the current system doesn't work at all in terms of catching abuse; hence, a major part of this bill is to correct this situation.

We went to great length in our committee report on this bankruptcy bill to discuss this point in very much detail. So this amendment should be defeated because it prevents the provisions prohibiting bad faith bankruptcy from being enforced. That is like saying to bankrupts it is not OK to file for bankruptcy in bad faith, but we are not going to do anything about it if you do. And, of course, that is exactly the wrong signal we want to send. We want to make sure that people who go into bankruptcy are people who have a legitimate reason for being there and that they aren't taking advantage of bankruptcy to somehow help themselves, and in bad faith is part of that process.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa has 5 minutes remaining, and the Senator from New York used all the time allowed.

Mr. GRASSLEY. I yield the remainder of my time.

Mr. SCHUMER. Mr. President, may I ask unanimous consent for 1 minute to respond?

Mr. GRASSLEY. Then I will reserve my time, if I may.

The PRESIDING OFFICER. The Senator from Iowa reserves his time.

Does the Senator object to the unanimous-consent request?

Mr. GRASSLEY. I do not object.

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

Mr. SCHUMER. I thank my colleague. I wish to answer.

The bill's provisions purporting to prevent and ameliorate coercive creditor litigation tactics will not be able to undo the damage done by giving creditors the right to bring 707(b) "totality of the circumstances" and "bad

faith" motions against low- and moderate-income debtors.

Section 102 of the bill says a court may award a debtor costs and attorney's fees if a court rules against the creditor's 707(b) motion and that motion was not "substantially justified." This provision will not deter coercive creditor litigation tactics. It doesn't cover coercive threats to bring 707(b) motions, which are often sufficient to force a debtor to give up his or her bankruptcy rights.

Finally, this sanctions provision contains an exception which precludes any award against a creditor that holds a claim of under \$1,000, no matter how wealthy the creditor is.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the issue that the Senator from New York just brought up of threats being used is exactly what the Reed-Sessions amendment deals with. I suggest this was also very much a point that was raised by people at the White House that we have been discussing—the whole issue of bankruptcy over a long period of time.

This was also worked out because this was a major concern. They did not want this abuse. They did not want the issue of threats. We agree with them, as we had to work it out with Senators SESSIONS and REED because the bill, as they saw it, was not adequate enough in this area.

As people vote on this amendment, I hope they will consider that we have been trying to respond in a very legitimate and strong way against the use of threats.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. GRASSLEY. The answer is yes.

Mr. SCHUMER. I thank the Senator for his careful deliberation and his yielding.

It is my understanding that section 203 of the bill deemed it a violation of the automatic stay for a creditor to engage in any communication other than a recitation of the creditor's rights, and this would deal with threat. This provision would be stricken from the bill by the Reed-Sessions amendment. So the Reed-Sessions amendment didn't deal with the problem, but it actually took out the basic protection that a low-income debtor would have against threat.

Is that not correct?

Mr. GRASSLEY. If you threaten somebody during reaffirmation, the Sessions-Reed amendment is set aside.

I yield the remainder of my time.

I ask unanimous consent that the Senator from Louisiana be granted 5 minutes to speak as if in morning business.

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

Ms. LANDRIEU. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

#### INTERIOR BILL NEGOTIATIONS

Ms. LANDRIEU. Thank you, Mr. President.

I know the underlying amendment we have just debated is quite important, and the bankruptcy bill we are debating is one of the things we have to reconcile in order to wrap up our business and do the work for the American people. But I come to the floor just for a few moments this afternoon to speak on another subject because I would like to do my part to help us bring this session to a positive close.

I was one of the Senators who placed a hold on some of the business before the Senate. I felt compelled to do so because of some actions the administration was taking in the negotiations process on the Interior bill. I believe I had to try to stop, or reverse, or change it. With other things that have taken place, I believe we have been somewhat successful. I want to speak about that for a moment.

As you are aware, Mr. President, about 2 years ago a great coalition of people came together from different perspectives in this country—different parties, different areas of this Nation—to begin to speak about the great need in America and the great desire on the part of the American people, from Louisiana, California, New York, and all places in between, to try to find a permanent way to fund very important environmental projects—the purchase of land, the expansion of parks, the creation of green space, the preservation of green space, the restoration of wetlands, the commitment to historic preservation, the expansion of our urban parks, the ability of all families, not just families who can afford to fly in jets or take long automobile vacations, but for families who live in the U.S., to be able to enjoy the beauty of nature; for us as a Nation as we move into this next century to take this opportunity to try to find a permanent way to fund some of these programs so they won't be subject to the whims and wishes of Washington, something that is fiscally conservative in terms of our balanced budget.

We tried to look for funding that would be appropriate to dedicate in this way. We found a source of funding. That is where the funding is—offshore oil and gas revenues that were the subject of an earlier debate today. As the prices go up, it helps some parts of our Nation; it is a challenge for other parts. But it brings more tax revenues into the Federal coffers.

For 50 years, we have been drilling off the shores of Louisiana, Texas, Mississippi, and the gulf coast. We have brought over \$120 billion to the Federal Treasury by depleting one important resource for our Nation. That money has gone to the general fund. It has been spent on a variety of projects—not reinvested but just spent in operating budgets.

Many of us think a more fiscally conservative approach, and a more sound and responsible approach, would be to

take a portion of those revenues produced by basically the gulf coast States and reinvest a portion, if you will, or share a portion of those revenues, with States and counties and parishes, as in Louisiana and communities around the Nation, to help in all the ways I have just expressed in all of our land acquisition, land improvements, expansion of our parks, and wildlife conservation programs.

Two years ago, a great coalition came together. On one side, we had the National Chamber of Commerce; on the other side, we had a variety of environmental groups; we had elected officials, both at the Federal level and State level. As I said, it was a bipartisan coalition that came together to back a bill, which was introduced on the House side and in the Senate, known as CARA, the Conservation and Reinvestment Act, to do just that.

This bill has picked up tremendous support in the last 2 years. It is pending before our Senate Energy Committee with Senator MURKOWSKI and me as the lead sponsors, with many Members of this body. The great news is that just last week in the House, under the great leadership of DON YOUNG from Alaska and GEORGE MILLER from California, the ranking member, this bill passed out very similar to ours on a 37-12 vote to try to help bring us to a bipartisan consensus.

I am hopeful, as we wrap up this session and as we begin to get ready for the next session of Congress, that we are now in a very good position to be able to take some final actions in moving that bill through committee, onto the floor, and into a conference where the final details can be worked out because if we are going to have any permanency of funding from this source, it is going to have to be something that is shared with the States that produce the money in the first place.

Louisiana produces about 70 percent of our offshore oil and gas revenues. We have great needs as a coastal State, along with States such as New York that just got hit very hard by Hurricane Floyd, causing tremendous damage. There are great coastal needs in our States to fully fund the land and water conservation and wildlife conservation programs.

I am very hopeful as we position ourselves for next year, that we are in a position to grab this opportunity supported by this grand coalition and do something very positive for America's environment.

I am pleased to say I will be prepared to release my hold on the foreign operations bill in an attempt to do my part to move to reconciliation because we have effectively stopped the administration's efforts to permanently allocate funding but in a way that will not cover all of the things as I outlined. We want to make sure this investment in the Nation is not just about Federal land acquisition, although that is a very important piece of this. We want to make sure it is balanced, with the

opportunity for Governors and local officials to purchase land at the local level. We want to make sure it is truly a partnership. We want to make sure the coastal impact assistance is there as well as funding for historical preservation, urban parks, and wildlife programs.

While we didn't reach every goal we set out, we have raised this issue. We have built a strong coalition. We have raised this issue and we have stopped the permanent allocation of these funds until the whole package can be dealt with. We have made a very positive step.

On behalf of the great coalition, I ask unanimous consent to have printed in the RECORD a letter to the President, signed by 14 Senators, along with a letter to Members of Congress from 865 organizations, business and government agencies, that are funding this effort.

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

U.S. SENATE,

Washington, DC, November 15, 1999.

The PRESIDENT,

The White House, Washington, DC.

DEAR MR. PRESIDENT: With your leadership we have a historic opportunity to pass legislation in this Congress that will permanently reinvest a portion of offshore oil and gas revenues in coastal conservation and impact assistance programs, the Land and Water Conservation Fund, wildlife conservation, historic treasures and outdoor recreation. Recently, forty of the nation's governors sent a letter to Congress encouraging us to seize this historic opportunity. This effort has been endorsed by almost every environmental organization in the country as well as a broad array of business interests including the United States Chamber of Commerce.

There is strong bi-partisan support now for a proposal that: will provide a fair share of funding to all coastal states, including producing states; is free of harmful environmental impacts to coastal and ocean resources; does not unduly hinder land acquisition but acknowledges Congress' role in making these decisions and reflects a true partnership among federal, state and local governments.

There is also strong support for using these OCS revenues to reinvest in the renewable resource of wildlife conservation through the currently authorized Pittman-Robertson program. This new influx of funding will nearly double the Federal funds available for wildlife conservation and education programs. We would like to ensure that wildlife programs are kept among the priorities when negotiating for monies from OCS revenues.

A historic conservation initiative is within our grasp. With budget negotiations currently underway, we urge you to push forward for a compromise which reflects the points outlined above. It will be an accomplishment we can all celebrate and a real legacy for future generations.

Sincerely,

Mary L. Landrieu, Max Cleland, Blanche L. Lincoln, Evan Bayh, John F. Kerry, Tim Johnson, Charles Robb, John Breau, Robert J. Kerrey, Barbara A. Mikulski, Ron Wyden, Herb Kohl, Ernest F. Hollings, Judd Gregg.

NOVEMBER 1, 1999.

U.S. CONGRESS,  
Washington, DC.

DEAR MEMBER OF CONGRESS: As the twentieth century draws to a close, Congress has

a rare opportunity to pass landmark legislation that would establish a permanent and significant source of conservation funding. A number of promising legislative proposals would take revenues from non-renewable offshore oil and gas resources and reinvest them in the protection of renewable resources such as our wildlife, public lands, coasts, oceans, historic and cultural treasures, and recreation. Securing this funding would allow us to build upon the pioneering conservation tradition that Teddy Roosevelt initiated at the beginning of the century.

The vast majority of Americans recognize the duty we have to protect and conserve our rich cultural and natural legacies for future generations. A diverse array of interest, including sportsmen and women, conservationists, historic preservationists, park and recreation enthusiasts, urban advocates, the faith community, business interests, state and local governments, and others, support conservation funding legislation because they recognize it is essential to fulfill this obligation.

We call upon you and your colleagues to seize this unprecedented opportunity. Pass legislation that would make a substantial and reliable investment in the conservation of our nation's wildlife; public lands; coastal and marine resources; historic and cultural treasures; state, local and urban parks and recreation programs; and open space. Design a bill that provides significant conservation benefits, is free of harmful environmental impacts to our coastal and ocean resources, and does not unduly hinder land acquisition programs.

An historic conservation funding bill is within our grasp. It will be an accomplishment that all can celebrate. We look to Congress to make this legislation a reality.

Sincerely,

Ms. LANDRIEU. I will read one paragraph from this petition. Let us grab the opportunity now, to:

Pass legislation that would make a substantial and reliable investment in the conservation of our Nation's wildlife; public lands; coastal and marine resources; historic and cultural treasures; State, local and urban parks, and recreation programs; and open spaces. [Let us] design a bill that provides significant conservation benefits, is free of harmful environmental impacts to our coastal and ocean resources and does not unduly hinder land acquisition programs.

I believe we can meet these goals as we negotiate the detail and compromise in the next session.

The Presiding Officer, being from the State of Alabama, has been a great leader in this effort. I look forward to working with the Senator next year. I am pleased to tell our leader I will be removing my hold on foreign ops because we have made some progress on this, and I look forward to working harder to make this a reality for the people of America the next time we meet.

I yield my remaining time.

Mr. REID. Before the Senator from Louisiana leaves the floor, I want to express to her the appreciation of the entire minority caucus. There is no Member of the Senate who is more astute, works harder, and has a better understanding of the issues that face the Senate, which was well demonstrated by her work on this issue about which she feels fervently. We are grateful at this late date the Senator

has been willing to work with members to release the hold.

**BANKRUPTCY REFORM ACT OF  
1999—CONTINUED**

Mr. KENNEDY. Mr. President, I understand we are back on the bankruptcy legislation; is that correct?

The PRESIDING OFFICER (Mr. SESSIONS). The Schumer amendment has not been disposed of.

Mr. KENNEDY. With the understanding of the Senator from New York, I ask unanimous consent we temporarily lay aside that amendment.

Mr. GRASSLEY. Reserving the right to object, and I will not object, I previously talked to the Senator from Massachusetts about time agreement on his amendment. I prefer to forego a time agreement and have him proceed accordingly. I have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Massachusetts is recognized.

AMENDMENT NO. 2652

(Purpose: To amend the definition of current monthly income to exclude social security benefits)

Mr. KENNEDY. I call up amendment numbered 2652.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2652.

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

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

The amendment is as follows:

On page 11, line 2, insert before the first semicolon “, but excludes benefits received under the Social Security Act”.

Mr. KENNEDY. Mr. President, this is a rather simple amendment. The amendment I have offered will protect a debtor's Social Security benefits during bankruptcy. This amendment is very important to older Americans. I hope my colleagues will support it as our House colleagues supported it last year.

As currently written, the means test in the pending bill will require debtors to use their Social Security benefits to repay creditors. My amendment excludes Social Security benefits from the definition of “current monthly income” and ensures that those benefits will never be used to repay credit card debt and other debt.

This amendment is particularly important to seniors. Between 1991 and 1999 the numbers of people over 65 who filed bankruptcy grew by 120 percent. If we look over the figures from 1991 to 1999 by age of petitioner, we see the growth of those that are going through bankruptcy primarily have increased in the older citizen age group. This is primarily a result of the downsizing, dismissing older workers and because

of health care costs—primarily they have been dropped from health insurance. As the various statistics show, increasing numbers of individuals have been impacted because of the prescription drugs.

Debtors filing a medical reason for bankruptcy, as the chart shows, reflects the fact we have gotten a significant increase in the number of older people who have gone into bankruptcy. The debtors who file as medical reasons for bankruptcy, we find, increases dramatically for older workers primarily because of health care costs more than any other factor.

We believe very strongly those individuals, most of whom are dependent upon Social Security as virtually their only income ought to have those funds protected so they will be able to live in peace with some degree of security and some degree of dignity.

This is sufficiently important. One can ask, why are we doing this now rather than before? The reason it was not necessary before is because the Social Security effectively was protected with a series of protections that were included in the existing bankruptcy law which have not been included in this legislation. Therefore, without this kind of an amendment, they would be eligible for creditors. We think protecting our senior citizens, those on Social Security, as a matter of both public policy and the fact of the importance of their contributions, obviously, in terms of society, should be protected during their senior years.

Today, many Americans work long and hard into the senior years. A growing percentage of the population is over the age of 85 and predominantly female. We see over the period of the next 10 years our elderly population will double and the increase in the percentage of women is going to increase significantly, as well. Others may be able to find alternative employment but at substantially lower wages or without health and other benefits that become increasingly important with age.

In spite of all of the efforts to slow down the discrimination against elderly, in too many circumstances in our country today, the elderly are discriminated against in terms of employment.

Older Americans sometimes resort to short-term, high-interest credit when faced with unemployment because they assume their unemployment will be temporary. They hope their use of credit or credit card debt will serve as a bridge to cover the necessities until they start receiving paychecks again. Due to their age, however, many of these individuals never earn a salary comparable to the pay they lost. They find themselves unable to deal with the new debt they have incurred. When they have nowhere else to turn, they sometimes turn to the safety value of bankruptcy.

Older Americans are also more frequent victims of predatory lending

practices. Sometimes, bankruptcy is the most viable avenue for an elderly person to address the financial consequences of being victimized by unscrupulous lenders. It is unfortunate that Senator DURBIN's amendment to address that problem was defeated last week.

Studies of the problems facing older Americans tell us the same sad story. In one study, one in ten older Americans reported that they filed for bankruptcy after unsuccessfully attempting to negotiate with their creditors. In some cases, their creditors threatened them with seizure of property, or placed harassing collection calls. Some of these senior citizens explained that they have been the victims of credit scams, and they were seeking relief in the bankruptcy courts.

For example, a 70-year-old woman filed for bankruptcy after her son discovered that she has allowed herself to become involved in a number of dubious financial transactions, including buying more than six different expensive and duplicative life insurance policies and spending several thousand dollars on sweepstakes contests. At the time of her bankruptcy, she had mortgaged her previously mortgage-free home for more than \$74,000 to try and pay off her debts. She was in danger of losing the home she shared with her husband who was in failing health.

The bottom line is that bankruptcy shouldn't be made more difficult for those who are depending on Social Security for their livelihood.

Social Security was developed to ensure that seniors can live their golden years in dignity. If we allow Social Security income to be considered while determining whether someone is eligible for bankruptcy, a portion of those benefits could be used in a manner inconsistent with Congress' intent.

Some of my colleagues oppose this amendment because they argue that wealthy seniors would be the beneficiaries. But, practically speaking, wealthy debtors rarely use Chapter 7—they've more likely to file under Chapter 11 of the bankruptcy code.

For very high income individuals, like Ross Perot, social security represents a very small percentage of their total income. Indeed, the maximum social security retirement benefit for a new 65-year-old retiree in 1997 was \$16,000. For the Ross Perot in this country, \$16,000 is a rounding error. His income is so high that including or excluding \$6,000 changes his income by only a tiny percentage. But for the poor widow who gets 90 percent of her income from social security it makes a big difference.

Rich debtors who file in Chapter 7 would be caught by the means test, whether or not the courts include Social Security income as part of the debtor's “current monthly income.”

It is important to realize that even though we do tax individuals on higher Social Security, 75 percent of our seniors pay no tax on Social Security because they are below \$25,000 in income.