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Senate

The Senate met at 9:10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of history, together we accept the unique role You have given our Nation in the family of nations. We praise You for Your truth spelled out in the Bill of Rights and our Constitution. Help us not to take for granted the freedoms we enjoy. May a fresh burst of praise for Your providential care of our Nation give us renewed patriotism. Keep us close to You and open to each other as we perform the sacred tasks of our work in the Senate today.

Gracious God, thank You for this moment of prayer in which we can affirm our unity. Thank You for giving us all the same calling: to express our love for You by faithful service to our Nation. So much of our time is spent debating differences that we often forget the bond of unity that binds us together. We are one in our belief in You, the ultimate and only Sovereign of this Nation. You are the magnetic and majestic Lord of all who draws us out of pride and self-centeredness to worship You together. We find each other as we praise You with one heart and express our gratitude with one voice. In the unity of the Spirit and the bond of peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

THE PRESIDING OFFICER (Mr. VOINOVICH). Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The able acting majority leader is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, I have an announcement on behalf of the leader. Following my statement, the Senate will resume consideration of the Department of Defense authorization bill. Under the order, Senator DODD will be recognized to offer his amendment regarding the Cuba commission, with up to 2 hours of debate. At approximately 11:30 a.m., Senator MURRAY will be recognized to begin debate on her amendment regarding abortion.

As usual, the Senate will recess for the weekly party conferences from 12:30 p.m. to 2:15 p.m. today. At 3:15 p.m., there will be up to four stacked votes, beginning with the Murray amendment, to be followed by the Hatch and Kennedy hate crimes amendment and the Dodd amendment.

I thank my colleagues for their attention.

MEASURE PLACED ON CALENDAR—S. 2752

Mr. GRASSLEY. Mr. President, on behalf of the leader, I ask for a second reading of the bill that I understand is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2752) to amend the North Korea Threat Reduction Act of 1999 to enhance congressional oversight of nuclear transfers to North Korea, and to prohibit the assumption by the United States Government of liability for nuclear accidents that may occur at nuclear reactors provided to North Korea.

Mr. GRASSLEY. Mr. President, I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. Under the rule, the bill will be placed on the calendar.

Mr. GRASSLEY. I thank the Presiding Officer.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized to speak for up to 10 minutes.

BANKRUPTCY REFORM

Mr. GRASSLEY. Mr. President, I rise this morning to speak on the topic of bankruptcy reform. As many of my colleagues may know, Congress is on the verge of enacting fundamental bankruptcy reform. Earlier this year, the Senate passed bankruptcy reform by an overwhelming vote of 83–14. Almost all Republicans voted for the bill and about one-half of the Democrats voted for it as well. Despite this, a tiny minority of Senators are using undemocratic tactics to prevent us from going to conference with the House of Representatives.

As I'm speaking now, the House and Senate have informally agreed on 99 percent of all the issues and have drafted an agreement which has bicameral and bipartisan support. The remaining three issues are sort of side shows, and I'm confident we'll be able to move from the one yard line to the end zone. My remarks this morning relate the agreement we've reached on the core bankruptcy issues and the continuing need for bankruptcy reform.

As I've stated before on the Senate floor, every bankruptcy filed in America creates upward pressure on interest rates and prices for goods and services. The more bankruptcies filed, the greater the upward pressure. I know that some of our more liberal colleagues are trying to stir up opposition to bankruptcy reform by denying this point and saying that tightening bankruptcy laws only helps lenders be more profitable. This just isn't true. Even the Clinton administration's own Treasury

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Secretary Larry Summers indicated that bankruptcies tend to drive up interest rates. Mr. President, if you believe Secretary Summers, bankruptcies are everyone's problem. Regular hardworking Americans have to pay higher prices for goods and services as a result of bankruptcies. That's a compelling reason for us to enact bankruptcy reform during this Congress.

Of course, any bankruptcy reform bill must preserve a fresh start for people who have been overwhelmed by medical debts or sudden, unforeseen emergencies. That's why the bill that passed the Senate—as well as the final bicameral agreement—allows for the full, 100 percent deductibility of medical expenses. This is according to the nonpartisan, unbiased General Accounting Office. Bankruptcy reform must be fair, and the bicameral agreement on bankruptcy preserves fair access to bankruptcy for people truly in need.

These are good times in our Nation. Thanks to the fiscal discipline initiated by Congress, and the hard work of the American people, we have a balanced budget and budget surplus. Unemployment is low, we have a burgeoning stock market and most Americans are optimistic about the future.

But in the midst of this incredible prosperity, about 1½ million Americans declared bankruptcy in 1998 alone. And in 1999, there were just under 1.4 million bankruptcy filings. To put this in some historical context, since 1990, the rate of personal bankruptcy filings has increased almost 100 percent.

With large numbers of bankruptcies occurring at a time when Americans are earning more than ever, the only logical conclusion is that some people are using bankruptcy as an easy out. The basic policy question we have to answer is this: Should people with means who declare bankruptcy be required to pay at least some of their debts or non? Right now, the current bankruptcy system is oblivious to the financial condition of someone asking to be excused from paying his debts. The richest captain of industry could walk into a bankruptcy court tomorrow and walk out with his debts erased. And, as I described earlier, the rest of America will pay higher prices for goods and services as a result.

I would ask my liberal friends to think about that for a second. If we had no bankruptcy system at all, and we were starting from scratch, would we design a system that lets the rich walk away from their debts and shift the costs to society at large, including the poor and the middle class? That wouldn't be fair. But that's exactly the system we have now. Fundamental bankruptcy reform is clearly in order.

Mr. President, I want my colleagues to know that the bicameral agreement preserves the Torricelli-Grassley amendment to require credit card companies to give consumers meaningful information about minimum payments on credit cards. Consumers will be warned against making only minimum payments, and there will be an example to drive this point home. As with the Senate-passed bill, the bicameral agreement will give consumers a toll-free phone number to call where they can get information about how long it will take to pay off their own credit card balances if they make only the minimum payments. This new information will truly educate consumers and improve the financial literacy of millions of American consumers.

The bicameral agreement also makes chapter 12 of the Bankruptcy Code permanent. This means that America's family farms are guaranteed the ability to reorganize as our farm economy continues to be weak. As we all know from our recent debate on emergency farm aid, while prices have rebounded somewhat, farmers in my home State of Iowa and across the Nation are getting some of the lowest prices every for pork, corn, and soybeans. And fuel prices have shot up through the roof. The bicameral agreement broadens the definition of ''family farmer'' and permits farmers in chapter 12 to avoid crushing capital gains taxes when selling farm assets to generate cash flow. It would be highly irresponsible of my liberal friends to continue blocking bankruptcy protections for our family farmers in this time of need.

The bicameral agreement is solidly bi-partisan and will pass by a huge margin when it comes up for a vote. The bill is fair and contains some of the broadest consumer protections of any legislation passed in the last decade. So, how can any person possibly argue against a bill which strengthens consumer protections while cracking down on abuses by the well-to-do?

The tiny handful of fringe radicals who oppose bankruptcy reform have waged a disinformation campaign worthy of a Soviet Commissar. A recent article in Time Magazine is a case in point. This article purports to prove that bankruptcy reform will harm low-income people or people with huge medical bills. This article is simply false.

What's most interesting about this Time article is what it fails to report. Time, for instance, fails to mention that the means test, which sorts people who can repay into repayment plans, doesn't apply to families below the median income for the State in which they live. The Time article then proceeds to give several examples of families who would allegedly be denied the right to liquidate if bankruptcy reform were to pass. Each of these families, however, would not even be subjected to the means test since they earn less than the median income. While this sounds technical, it's important—not even one of the examples in the Time article would be affected by the means test. For the convenience of my colleagues, I have collected the actual bankruptcy petitions of the families referred to in the Time article, and I will provide them to any Senator.

Time fails to mention the massive new consumer protections in our bankruptcy reform bill. Time fails to mention the new disclosure requirements on credit cards regarding interest rates and minimum payments. In short, the Time article fails to tell the whole truth. I think that the American people deserve the whole truth.

The truth is that these bankruptcies represent a clear and present danger to America's small businesses. Growth among small businesses is one of the primary engines of our economic success.

The truth is bankruptcies hurt real people. Sometimes that will be inevitable. But it's not fair to permit people who can repay to skip out on their debts. I think most people, including most of us in Congress, have a basic sense of fairness that tells us bankruptcy reform is needed to restore balance. Let me share what my constituents are telling me.

I ask unanimous consent to have some of their comments printed in the RECORD.

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

WHAT REAL PEOPLE ARE SAYING ABOUT BANKRUPTCY REFORM

''The present [bankruptcy laws] are a joke . . . One local man has declared bankruptcy at least four times at the expense of suppliers to him. He just laughs at it . . .''—Washington, Iowa.

''It is way too easy to avoid responsibility.''—Cedar Falls, Iowa.

''If one assumes debt they need to pay it off . . . We've got to take responsibility for our purchases!''—Independence, Iowa.

''Too many people use bankruptcy as an out, we need to make sure people are held accountable for all their debts.''—Harlan, Iowa.

''Personal responsibility is a must in our country . . . Sickness or loss of a job is one thing, but the majority of people just don't pay, but spend their money elsewhere knowing they can unload the debt with the help of the courts.''—Fort Madison, Iowa.

''I think people taking bankruptcy should have to pay the money back . . . They should have learned to work for and pay for what they get.''—Cedar Rapids, Iowa.

''It is insane that such a practice has been allowed to continue, only causing higher prices to the consumer . . . Debtors should be required to repay their debt.''—Des Moines.

''Bankruptcies are out of hand. It's time to make people responsible for their actions—do we need to say this!!!??''—Keokuk, Iowa.

''We need to make people more responsible for their decisions, while at the same time protecting those who fall on hard times. I realize that this is a delicate balance, but the way it is now, there is very little shame in going this route.''—Floyd, Iowa.

''People need to be more responsible for their debts. As a small business owner, I have had to withstand several large bills people have left with me due to poor management and bankruptcy.''—Fontanelle, Iowa.

''Bankruptcy reform will force the American people to become more responsible for their actions, bankruptcy does not seem to carry any degree of shame; it is almost regarded as a right or entitlement.''—Cedar Rapids, Iowa.

''Many don't think the business is who loses. We make it too easy now.''—Waverly, Iowa.

Mr. GRASSLEY. Mr. President, bankruptcy reform will happen. Our cause is right and just, and average Americans are strongly supportive of restoring fairness to the bankruptcy system.

I am going to yield the floor now. Before I do, I thank Senator BIDEN, who is next to speak on this subject. If it had not been for Senator BIDEN working with us in a bipartisan way to get bankruptcy reform, it would never have passed by the wide margin of 84–13. He is a sincere person working on this. He has contributed immensely to it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 10 minutes.

Mr. BIDEN. Mr. President, let me begin by thanking my colleague from Iowa. He and I have worked together on a lot of issues. We tend to approach issues from a slightly different perspective but often end up in the same place, and that is the case here.

My concern in the reform of the bankruptcy code was not as much driven by those who were avoiding debt as his was but about making sure the overall consumer is protected. When people avoid debts they can pay, it is a simple proposition: My mother living on Social Security pays more at the department store to purchase something, my sons, who are beginning their careers, and my daughter pay more on their credit card bill because someone else does not pay.

In recent days, a number of my colleagues have brought the Time magazine article to my attention and to the attention of the Senator from Iowa and others. If you took a look at the Time magazine article and read it thoroughly, you would think we were about to tread on the downtrodden, deserving Americans who are about to be, and I quote from the article, ''soaked by the Congress.'' My colleagues have pointed this out to me. They find it a very disturbing article. It tells a tale of corruption and greed and heartlessness, claims that hard-working, honest, American families are about to be cut off from the fresh start promised by the bankruptcy code, and that lenders, who have driven these families into economic distress, are about to kick them when they are down.

Most shocking in the article, perhaps, from my perspective, is the claim that the U.S. Congress, by passing the bankruptcy reform legislation which passed out of here overwhelmingly, will make all this happen. As I said, it is a very disturbing article. It is hard to see how anyone, in my view, could vote for bankruptcy reform if, in fact, the essence of the article were true. But I remind my colleagues that bankruptcy reform legislation, not this imaginary legislation described in the article, passed the House by a vote of 313–108, and the Senate by 84–13. So this article claims a vast majority of both our parties in both Houses of Congress are conspirators in an alleged plot to hit those who are down on their luck.

The problem with this portrayal is the bankruptcy reform bill now in conference is the antithesis of what they have said. Their article is simply dead wrong. I do not ever recall coming to the floor of the Senate in my 28 years and saying unequivocally: One of the most respected periodicals and magazines in the country, with a major article, is simply dead, flat, absolutely wrong. I don't recall ever being compelled to do that or being inclined to do that.

I will make one admission at the outset. It is the intent of the bankruptcy reform to tighten the bankruptcy system; that is true, to assure that those who have the ability to pay do not walk away from their legal debts. The explosion of bankruptcy in the early and mid-1990s revealed a problem with our system and the reform legislation is a response to that by the strong bipartisan vote of both Houses.

I am more on that liberal side, as my friend from Iowa talks about. I admire his pride that everybody should pay their debts, and I think they should.

I am more inclined to let someone go than to hold them tightly. I admit that part. But I came here with this reform legislation because all these bankruptcies are causing debts to be driven up by other people. Interest rates go up on credit cards, not that credit card companies do not like high interest rates anyway. Interest rates go up on automobile loans. Interest rates go up all over the board. The cost of borrowing money goes up when people who can pay do not pay. It means innocent middle-class people and poor folks end up paying more.

Yes, bankruptcy reform is intended to require more repayment by those who can afford it, more complete and verified documentation, and to generally discourage unnecessary and unwarranted filings. When the bankruptcy system is manipulated by those who can afford to pay, we all pay.

This article claims that bankruptcy reform legislation is driven solely by the greed of lenders, that abuse of the bankruptcy code is a myth created by those who want to wring more money out of those who do not have more money. That is not the position of the Justice Department.

I ask unanimous consent that a document entitled ''U.S. Trustee Program'' be printed in the RECORD at the end of my statement.

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

(See Exhibit 1.)

Mr. BIDEN. Mr. President, back to the Time article. One would think there was no reason to tighten up the current system, that those of us who support bankruptcy reform—a large bipartisan majority—had lost our hearts, our souls, and possibly our minds. Some folks might find that easy to believe, but if they simply compare the language of the legislation to the case studies in the article, they will find that in virtually every significant claim and detail, the charges leveled against this reform legislation are not true. They are simply false; they are flat wrong; and they are easily and conclusively refuted by a quick look at the facts.

First, a little primer on the bankruptcy code reform. Chapter 7 of the bankruptcy code requires a liquidation of any assets and a payout to as many creditors as possible from the proceeds. Chapter 13 allows the filer to keep a home, a car, and so on, but requires them to enter into a repayment plan. The irony is, chapter 13 was put in to help people from the rigors of chapter 7. I do not have time to go into that, but it is a basic premise that is missed by the article.

The bankruptcy reform legislation that is the cause for such alarm in this article asks a question that I think most Americans would be surprised to learn is never even asked under the present system. The question is: Do you have the ability to pay some of those debts that you want forgiven?

If the answer is yes, then you will have to file for bankruptcy under chapter 13 and have what they call a workout, a repayment plan. No one—I repeat, no one—who needs it would ever, as this article puts it, be denied bankruptcy assistance. That cannot happen now, and it will not happen under this legislation. So it is not the idea you are denied bankruptcy, it is how you file for bankruptcy—under chapter 7 or chapter 13.

Only a few filers of bankruptcy, no more than 10 percent of those now filing under chapter 7—maybe even less—would see any change at all in their status. Those who have demonstrated an ability to pay would be told to file under chapter 13 and would follow the kind of repayment plan their resources would allow.

A key point must be stressed: Chapter 13 is not some kind of debtor's prison. It is a practical solution to the problem of too many creditors chasing a debtor with too few resources. The article suggests that any change in the availability of chapter 7 will be the equivalent of the whip and the lash and the restoration of debtor's prison. The truth is different.

Chapter 13 was added to the bankruptcy code in the 1930s as the more desirable alternative to the draconian liquidation required under chapter 7. It was conceived as the ''wage earner's'' form of bankruptcy, for those who had an income and the ability to pay some of their creditors but who needed protection of the system to keep their creditors from hounding them.

Although this may seem like a quaint notion these days, it was intended to preserve some of the debtor's dignity at a time when bankruptcy carried more of a stigma for some people than it does today.

A profoundly mistaken view of the difference between chapter 7 and chapter 13 is not the most serious flaw in this article. The real impact of this article comes from its stories of hard-working, honest, everyday American families who have fallen on hard times. These are the people who will, according to the article, find the door to a fresh start shut to them.

As disturbing as these stories are, they are all based on a demonstrably false premise. As the Senator from Iowa said, virtually none of the low- to moderate-income working families whose stories were so compellingly told in that article would be touched by the reforms affecting the availability of chapter 7.

That is right. In each and every case, given their income and their circumstances as presented, those families and individuals who were talked about in the article would still be eligible for chapter 7 protection. The central claims about the impact of bankruptcy reform on the families described in this article are flat wrong.

I know a lot of my colleagues have been concerned about these charges, and I urge them to take a simple test. Compare the financial circumstances of the individuals in the article and the stories that are told with the terms of our bankruptcy legislation. My colleagues will see the claims that these families will be cut off are not true.

They are wrong chiefly because the reform legislation contains what we call a safe harbor which preserves chapter 7, with no questions asked, for anyone earning the median income or less for the region in which they live. This is a protection I sought along with other supporters of bankruptcy reform. It was a key element of the Senate bill, and it has been accepted in conference.

There is even more protection: Those with up to 150 percent of the median income will be subject to only a cursory look at their income and obligations, not a more detailed examination.

These provisions provide that the door to chapter 7 remains open for just the kind of family the article claims will be most hurt.

I will not chronicle all of them, but I ask you to listen to this one story. Of all the cases chronicled in the article, I read most carefully the story of Allen Smith of Wilmington, DE, my hometown. A World War II veteran, he had worked in our Newark, DE, Chrysler plant until the downsizing of the 1980s cost him his job.

Struck by cancer, my constituent from Wilmington, DE, was also hit with the tragedy and expense of his wife's diabetes and then her death. Health care costs drove him deeper and deeper into debt, and he filed for bankruptcy under chapter 13. Further financial troubles led to the failure of his chapter 13 plan, and he was then switched to chapter 7 under which he will lose his home to pay some of his obligations.

I searched in vain to find any relevance of this profound human tragedy to the bankruptcy reform legislation. To the extent it has anything at all to do with the supposed point of the story, Mr. Smith's story is presented to show us someone who is going to lose his home in bankruptcy, because he is now in chapter 7, exactly what the authors previously argued should be the preferred chapter for individuals in his circumstances. His sad story is an argument for catastrophic health insurance, not against bankruptcy reform.

They contrast his case with that of a wealthy individual who uses the protection of the present bankruptcy code by purchasing an expensive home under Florida's unlimited homestead exemption to protect assets from creditors. One would never know it from reading the article, but in the Senate we voted to get rid of that unlimited exemption that now is in the law.

More recently, the conferees have agreed to eliminate precisely the kind of abuse criticized in this article. The article discusses at length a case that has nothing to do with reform but criticizes an abuse that is actually fixed by this reform bill.

There are other profound inconsistencies and factual errors in the article, including the assertion that medical expenses would not be considered in calculating a filer's ability to pay or would not be dischargeable after bankruptcy or that family support payments, such as child support or alimony, would be a lower priority than a credit card debt. None of these assertions is true.

However, without these errors, there would be no article.

In many cases, in terms of the new, additional protections for family support payments and improved procedures for reaffirmations, filers in the kind of circumstances chronicled in the other stories in this article would be better off, not worse off, when this legislation passes.

I know my colleagues have expressed their worries about this article. I truly ask them, look at the language of the legislation, look at the articles that are written, and you will find that, although this is not a perfect bill, that none of the families chronicled in that article would be affected at all except their circumstances improved, if in fact anything was to happen.

I know that my colleagues who have expressed their worries about this article are sincere in their concern about the fairness of bankruptcy reform legislation. I urge them to apply the simple test of fairness to this article, to compare the situations of those families in the article to the actual provisions in the bankruptcy reform legislation. They will find those families's access to the full protection of Chapter 7 unchanged by this bill.

I ask them to do it for themselves: they don't have to take my word for it.

This is not a perfect bill. It is not the even bill that I would have written by myself. But it is a bill that can pass that test.

I thank the Chair and I thank my colleagues assembled on the floor for the additional 4 minutes. I realize it is a tight day and time is of the essence. I appreciate their courtesy.

I yield the floor.

EXHIBIT 1

[Bankruptcy Criminal Cases 1999]

U.S. TRUSTEE PROGRAM

(Criminal Cases: The United States Trustee Program's duties include policing the bankruptcy system for criminal activity, referring suspected criminal cases to the appropriate law enforcement agencies, and assisting in investigating and prosecuting those cases. Some significant bankruptcy-related criminal cases are described here)

1999

ALABAMA

Attorney John C. Coggin III of Birmingham, Ala., was sentenced July 26 to 36 months in prison for conspiracy consisting of bankruptcy fraud, money laundering, and false statements to a federal officer. Coggin hid more than $200,000 that was due to creditors in his bankruptcy case, using a corporation set up for that purpose.

ARIZONA

Bankruptcy petition preparer Richard S. Berry of Tempe, Ariz., was sentenced April 20 in the District of Arizona to six months in prison for criminal contempt of court, after being fined $1 million in 1998 for willfully violating Bankruptcy Court orders. Since January 1997, several court orders addressed Berry's violations of the Bankruptcy Code's provisions regulating bankruptcy petition preparers. The Bankruptcy Fraud Task Force for the District of Arizona sought criminal contempt charges against Berry based on his violation of a January 1997 Bankruptcy Court order limiting his fees.

Lawrence R. Costilow of Tucson pleaded guilty February 19 to two counts of bankruptcy fraud arising from his actions as a creditor in a Chapter 7 bankruptcy case. Costilow loaned $50,820 to a married couple, obtaining an unsecured promissory note in return. After the spouses filed for bankruptcy, Costilow altered the note so it purposed to take a security interest in their property. Costilow recorded the note and later testified in bankruptcy court as to it validity.

CALIFORNIA

Sherwin Seyrafi of Encino, Calif., pleaded guilty December 28 in the District of Arizona to bankruptcy fraud, misuse of a Social Security number, and failure to file a corporate tax return. The counts for bankruptcy fraud and misuse of an SSN arose from Seyrafi's filing of a bankruptcy petition with the knowledge that it contained a false spelling of his name and a false Social Security number.

Judy Scharnhorst Brown, a Spring Valley, Calif., real estate broker, was sentenced Nov. 9 in the Southern District of California to 15 months in custody followed by three years of supervised release and ordered to pay $75,000 in restitution and fines for a bankruptcy fraud and mail fraud scheme. On March 30, a jury convicted Brown on one count of conspiracy, three counts of bankruptcy fraud, and eight counts of mail fraud after a two-week jury trial.

On April 21 a federal jury in Los Angeles convicted Faramarz Taghilou of Castaic, Calif., on two counts of concealing his private airplane in his Chapter 7 bankruptcy case. Taghilou failed to disclose in his bankruptcy documents that he owned a Cessna 310Q insured for $120,000 and was paying monthly leasing fees to have the airplane kept at Van Nuys airport. Additionally, Taghilou's bankruptcy schedule omitted a creditor who had placed a mechanic's lien on the airplane; the debtor paid that creditor two weeks after filing for bankruptcy.

Theresa Marie Thompson-Snow pleaded guilty March 17 in the Central District of California to false representation of a Social Security number and bankruptcy fraud. Through an error, Thompson-Snow obtained loan documents belonging to a college classmate—now an English professor—with a similar name. She subsequently assumed the professor's identity to obtain thousands of dollars in credit, and ultimately filed for bankruptcy in her victim's name.

Tricia Mendoza of Norwalk, Calif., was sentenced Jan. 11 to one year in prison and ordered to pay almost $250,000 in restitution for embezzling from a Chapter 13 trustee operation. Mendoza, who was the trustee office's receptionist, changed names and addresses in the computer system to the name and address of an accomplice, thereby diverting payments intended for creditors to an address she controlled.

Stephen Martin Zuwala was sentenced June 9 to 57 months in federal prison and 36 months supervised release, and ordered to pay more than $50,500 in restitution, based on his conviction on five counts of mail fraud, three counts of criminal contempt, and four counts of misuse of a Social Security number. Non-lawyer Zuwala contacted individuals facing home foreclosure and offered assistance through ''little-known federal relief programs'' that turned out to be filing for bankruptcy. Zuwala typically charged $500 to $1,000 per case, but disclosed only part of his fees in documents filed with the Bankruptcy Court. All criminal contempt counts arose from Zuwala's violation of a prior judgment obtained by the United States Trustee to permanently enjoin him from preparing bankruptcy documents for filing in the Northern and Eastern Districts of California.

Bankruptcy petition preparers Regina Green and Raymond Zak were sentenced April 15 based on their earlier convictions for criminal contempt and bankruptcy fraud. Because of misconduct, Green and Zak had been ordered by the Bankruptcy Court for the Northern District of California to stop preparing bankruptcy petitions, and they were prosecuted for violating that order. Green was sentenced to seven months in prison for contempt of court and forgery, and Zak was sentenced to six months in a halfway house for bankruptcy fraud. Both defendants were ordered to pay restitution and were barred from acting as bankruptcy petition preparers.

COLORADO

James Francis Cavanaugh pleaded guilty Oct. 8 to bankruptcy fraud in the District of Colorado. When Cavanaugh filed for bankruptcy, he falsely stated that he had sold certain horses from his Colorado horse breeding operation for $10,000, although he had earlier valued the horses at $124,000. He also failed to disclose to the bankruptcy court that he had interests in two bank accounts in Missouri.

FLORIDA

After a jury trial in the Middle District of Florida, certified public accountant Kenneth A. Stoecklin was convicted July 8 for embezzlement from the bankruptcy estate of Chapter 11 debtor Commonweal Inc. and obstruction of the administration of the internal revenue laws. Stoecklin, the controlling corporate officer of Commonweal Inc., transferred substantially all of his assets to the real estate development company in an apparent attempt to avoid an individual income tax liability exceeding $137,000. He subsequently withdrew funds from an account established to provide the government with ''adequate protection'' pending the outcome of tax-related litigation.

Warren D. Johnson Jr. was sentenced June 23 to 97 months imprisonment and ordered to pay more than $5 million restitution after being convicted of bankruptcy fraud, bank fraud, and money laundering. During a June 1998 bond hearing, Johnson testified that he had no interest in stocks or other assets in the Turks and Caicos Island, when he actually held around $25 million worth of stock in a publicly traded company. In addition, Johnson claimed he was indigent and could not pay restitution despite the fact that the controlled more than $10 million in assets placed in the names of family members and off-shore shell corporations. Johnson's bankruptcy convictions resulted from a 1992 bankruptcy case in which he claimed over $7.2 million in debt and no assets, when he actually expected to receive at least $1.2 million in real estate sale profits. Johnson laundered approximately $250,000 of these profits by transferring the funds to his wife and then using them for living expenses. The bank fraud conviction resulted from Johnson's filing false financial statements to obtain a $600,000 loan that he did not repay.

GEORGIA

The District Court for the Northern District of Georgia entered judgment on December 13 against David Alvin Crossman of Atlanta following his guilty plea to one count of filing a false income tax return and one count of bankruptcy fraud. Crossman set up a car leasing scheme under which he created false financial statements and tax returns to lease cars as if he were fleet leasing for a business, and then re-leased the vehicles to individuals with poor credit. In his individual and corporate Chapter 7 bankruptcy cases, he failed to turn over lease payments to the bankruptcy trustees.

Craig D. Butler pleaded guilty Sept. 17 to bankruptcy fraud and income tax evasion. In October 1995, Butler filed a bankruptcy petition in which he made false representations and statements to evade payment of federal income taxes. During the bankruptcy case, Butler, who formerly practiced medicine in Albany, Ga., used funds of his professional corporation to pay his personal expenses and those of his family members, while designating the payments as business-related expenditures.

HAWAII

On December 10 a federal jury in the District of Hawaii found attorney Stacy Moniz of Kaneohe guilty of filing a false income tax return, structuring cash transactions to evade currency reporting requirements, failing to report the receipt of $15,000 cash in the operation of his law office, making false statements to the IRS, and making a false statement under penalty of perjury in a bankruptcy proceeding. The bankruptcy count arose from Moniz's falsely reporting a client to be a creditor in his August 1997 bankruptcy case.

Arthur Kahahawai pleaded guilty Oct. 4 in the District of Hawaii to two counts of bankruptcy fraud. Kahahawai concealed from the bankruptcy trustee and his creditors a $71,517 workers' compensation settlement that he received less than one month before filing for bankruptcy.

Miyoko Mizuno, a/k/a Miyoko Proctor, pleaded guilty in the District of Hawaii Sept. 24 to concealment of assets in her bankruptcy case. The debtor attempted to discharge approximately $185,000 in unsecured debts by filing for Chapter 7 bankruptcy. She listed no interests in real property, when in fact she had deeded to her son a condominium and her residence while retaining a life interest in both properties, which could generate substantial rental income.

Edward O'Kelley, former owner and president of HOJE Construction, was sentenced April 23 in the District of Hawaii to 33 months in prison for bankruptcy fraud (concealment of assets and fraudulent transfer), and money laundering. O'Kelley had been found guilty in a jury trial for his role in putting HOJE Construction into Chapter 7 bankruptcy and hiding its assets in bank accounts in Alaska and Texas. HOJE performed subcontracting work on military projects in Hawaii and Alaska from 1992 through 1995. O'Kelley and HOJE operations manager Harry Jordan conspired to hide more than $450,000, which the bankruptcy trustee recovered.

Harry Jordan pleaded guilty to bankruptcy fraud Feb. 8 in the District of Hawaii; he was sentenced to one year probation with one month home confinement, and ordered to pay $75,000 in restitution. The court took into account that Jordan, the former operations manager of HOJE Construction Inc., cooperated with the United States Attorney and testified against HOJE president Edward O'Kelley, who was found guilty of bankruptcy fraud and money laundering. HOJE performed subcontracting work on military projects in Hawaii and Alaska from 1992 to 1995, when it filed for bankruptcy. More than $450,000 in concealed assets have been recovered.

ILLINOIS

A federal jury in the Northern District of Illinois Oct. 22 convicted Vincent M. Gramarossa on two counts of bankruptcy fraud and eight counts of money laundering. Gramarossa defrauded bankruptcy creditors by skimming more than $580,000 from his business, a State Farm Insurance agency in suburban Chicago. Gramarossa's confirmed Chapter 11 reorganization plan directed that he pay half his profits to creditors, but Gramarossa devised a scheme under which he diverted commissions to conceal approximately one-third of his commissions.

INDIANA

Bankruptcy debtors' attorney David T. Galloway of Porter County, Ind., pleaded guilty April 5 in the Northern District of Indiana to criminal contempt and agreed to resign from the practice of law for three years. Galloway served as counsel for a Chapter 7 debtor who concealed a pending personal injury action from the bankruptcy case trustee. The debtor testified at the Section 341 meeting of creditors that his medical debts resulted from illness. After the Section 341 meeting, the United States Trustee's office in South Bend, Ind., and the case trustee investigated the nature of the medical debts, leading to the discovery of the personal injury lawsuit.

KENTUCKY

Debtors Daniel Caldera and Martha Kay Caldera of Elizabethtown, Ky., were sentenced Oct. 20 in the Western District of Kentucky for bankruptcy fraud. Daniel Caldera pleaded guilty to concealing a $101,295 payment from C&S Carpentry Service Inc.'s bankruptcy estate. He was sentenced to 21 months imprisonment plus two years supervised release, and ordered to pay $11,272 in restitution. Martha Kay Caldera pleaded guilty to filing a bankruptcy petition containing a materially false declaration—that she and/or her spouse did not own an annuity when in fact her spouse did. She was sentenced to 24 months probation, including six months of home incarceration.

LOUISIANA

Former district attorney James A. Norris, Jr. was sentenced June 22 in the Western District of Louisiana to 33 months in prison and three years supervised release, and ordered to pay $490,000 in restitution for bankruptcy fraud. On March 10, a jury found Norris guilty of four counts of making false oaths in a bankruptcy proceeding, in connection with his four statements under oath that he had burned $500,000 cash in his backyard. In 1989, Norris withdrew approximately $500,000 from his law partnership's account in a dispute over business decisions; his former law partners ultimately obtained a court judgment against him and filed an involuntary bankruptcy petition against him.

Attorney Betty L. Washington was sentenced Jan. 20 in the Eastern District of Louisiana to 33 months in prison, and ordered to pay approximately $5,000 in restitution, based on a jury verdict finding multiple counts of fraud, including bankruptcy fraud. In her Chapter 7 bankruptcy case Washington concealed her right to receive legal fees from a client. Further, as part of a scheme to obtain more than $20,000 in automobile loans, Washington tried to mislead a bank into believing her bankruptcy case had been concluded.

MAINE

On June 8 Catherine Duffy Petit was sentenced in the District Court for the District of Maine to 15 years and eight months in prison and three years supervised release, and ordered to forfeit nearly $164,000 and to pay restitution of nearly $8 million, based on her conviction on 54 counts (reduced by the court from 78) of conspiracy, bankruptcy fraud, securities fraud, and other violations. Petit and co-conspirators had raised almost $7 million—ostensibly for litigation expenses—by selling interests in Petit's state court suit against a bank.

MASSACHUSETTS

On July 8 attorneys Wendy Golenbock and Cheryl B. Stein of Weston, Mass., were each sentenced in the District of Massachusetts to 21 months in jail for bankruptcy fraud. The attorneys attempted to conceal their property interest in a Cape Cod, Mass., vacation home from their bankruptcy trustee and creditors. In March 1999, a jury found them guilty of bankruptcy fraud and conspiracy to commit bankruptcy fraud.

Prosecutors in Boston announced Feb. 9 the settlement of charges filed against Sears, Roebuck & Co. for improper debt collection from Chapter 7 debtors. Sears agreed to pay a $60 million criminal penalty, which is the largest ever paid in a bankruptcy fraud case. The monies will be deposited into the Crime Victims' Fund. Sears already paid over $180 million in restitution and $40 million in civil fines to state attorneys general, in connection with civil settlements in the case.

MINNESOTA

Mark John McGowan of Mound, Minn., was sentenced Sept. 1 to one year in prison and two years of supervised release for bankruptcy fraud and perjury. In his Chapter 7 bankruptcy schedules, McGowan listed a $100,000 house that he claimed exempt as his homestead although he actually rented the house and had no intent to occupy it.

Daniel J. Bubalo of Edina, Minn., was sentenced June 8 to 21 months in prison and ordered to pay $85,000 in restitution following his conviction on two counts of bankruptcy fraud. After Bubalo's bankruptcy case was converted from Chapter 11 to Chapter 7, and without the Chapter 7 trustee's knowledge, Bubalo sold for $70,000 a Duluth, Minn., bar valued at $175,000. He later testified that the property's status had not changed since his case was converted.

MISSOURI

Keith D. Linhardt of Warrenton, Mo., pleaded guilty Feb. 12 in the Eastern District of Missouri to bankruptcy fraud and perjury. Linhardt admitted that he concealed financial accounts as well as his interests as primary beneficiary of seven life insurance policies—totaling more than $1.5 million—on his wife, who died on a camping trip in April 1998. In July 1998, at his Section 341 meeting with creditors, Linhardt testified to the trustee concerning his non-debtor spouse as though she were alive. On January 15, 1999, Linhardt pleaded guilty to second degree murder of his wife and was sentenced to life in prison. He also pleaded guilty to four counts of insurance fraud and was sentenced to 20 years in prison, consecutive to the life sentence.

NEW JERSEY

Michelle A. Pruyn of Medford, N.J., pleaded guilty Oct. 1 in the District of New Jersey to concealing company income from her creditors, the Bankruptcy Court, and the IRS during her Chapter 7 bankruptcy case. Pruyn was the former president and owner of Sigma Acquisition Corp., Televid Media Buying Inc., and other New Jersey-based video production-related companies. She concealed assets worth at least $240,000 from the court and her creditors by failing to disclose her equitable interest in a Pennsauken, N.J., commercial building and the existence of an investment account held in the name of the Cogan Corp., to which she diverted part of the receipts of Sigma and the other companies she owned.

Alexander Alegria of Fords, N.J., pleaded guilty July 21 to filing a false bankruptcy petition. He admitted that he falsely stated his Social Security number on the petition and that he sought to discharge approximately $25,000 in debt he had incurred under the false SSN.

NEVADA

John and Rena Kopystenski of Las Vegas were sentenced on December 2 to 21 months in prison and ordered to pay $67,000 in restitution after pleading guilty in the District of Nevada to bankruptcy fraud, money laundering, and aiding and abetting. The Kopystenskis were principals of debtor Quality Ice Cream Inc., which went through several bankruptcies under different names with essentially the same assets.

NEW YORK

Joseph W. Kennedy Jr. of Rochester, N.Y., was sentenced Nov. 3 to 27 months in prison and three years supervised release, and ordered to pay $235,000 in restitution, based on his conviction on three counts of bankruptcy fraud. Kennedy failed to disclose in his Chapter 7 schedules that he owned one insurance agency and was a 47 percent shareholder and officer in another insurance agency.

Kenneth Stenzel of Queens County, N.Y., was sentenced Aug. 31 in the Eastern District of New York to five years probation and ordered to pay restitution of $5,920 payable to the Chapter 7 trustee, based on his guilty plea to bankruptcy fraud. Stenzel intentionally made a materially false statement by stating in his bankruptcy schedules that he was unemployed, when he was actually earning more than $5,000 a month as a computer programmer.

Garden City, N.Y., attorney Brent Kaufman pleaded guilty July 26 in the Eastern District of New York to two counts of bankruptcy fraud arising from the filing of two false proofs of claim on behalf of a fictitious creditor. Kaufman, an associate with a Chapter 7 bankruptcy trustee's law firm, admitted embezzling $117,000 from five bankruptcy estates.

OHIO

Albert J. DeSantis, formerly of Columbus, Ohio, and Upper Arlington, Ohio, was sentenced August 26 to 51 months imprisonment based on his plea of guilty to charges of bankruptcy fraud, money laundering, and witness tampering. The former Columbus, Ohio, real estate developer filed for Chapter 11 bankruptcy relief but failed to list assets exceeding $920,000 in value, including a residence and a bank account. He also counseled two employees to withhold information from the federal grand jury that was investigating his conduct in the bankruptcy case.

OKLAHOMA

Mary Ann Adams and John Quincy Adams pleaded guilty Sept. 15 to bank fraud in connection with their concealment of more than $90,000 in assets after a bank foreclosed upon their property. The Adamses, who owned an implement company, hid tractor and combine parts, transferred real property, and concealed personal property including certificates of deposits.

Jesse Joseph Maynard and Samuel Bruce Love were convicted Sept. 1 in the Western District of Oklahoma on eight counts arising from the October 1993 bankruptcy filing on behalf of First Assurance & Casualty Co. Ltd. The defendants concealed more than $270,000 in bankruptcy estate assets from the Chapter 7 trustee, and transferred monies from the bankruptcy estate post-petition.

OREGON

Bankruptcy petition preparer Robert Tank pleaded guilty April 9 to criminal contempt of court in the District of Oregon. In 1996, the United States Trustee obtained an order fining Tank approximately $10,000 and prohibiting him from engaging in certain deceptive practices or practicing law in Oregon. Tank violated the order, and the United States Trustee obtained a national permanent injunction against him. Tank continued to prepare bankruptcy petitions, and engaged in a series of violations of various orders.

Former Chapter 11 trustee Thomas G. Marks was sentenced March 15 in the District of Oregon to twelve months plus one day in prison, three years probation, and payment of restitution, for embezzling funds in three Chapter 11 bankruptcy cases where he acted as a fiduciary after the case was confirmed. The United States Trustee discovered the embezzlement of approximately $108,000 based on an inquiry from Marks' former business partner. The United States Trustee obtained Marks' resignation as fiduciary in the cases, and arranged the appointment of successor fiduciaries to pursue bond claims relating to the losses.

PENNSYLVANIA

On Nov. 15 the District Court for the Eastern District of Pennsylvania sentenced Philadelphia attorney Steven Bernosky, and barred him from practicing law for three years, for embezzling approximately $14,000 from a Chapter 11 bankruptcy estate. Bernosky served as debtor's counsel in the Chapter 11 bankruptcy case of Morris Schiff Co. The debtor company's property was sold for approximately $14,150, and Bernosky improperly deposited a check for the sale proceeds into his personal account. Bernosky made partial restitution of $11,000 before sentencing and produced a check for the balance at the sentencing hearing. He was sentenced to five years probation and ordered to pay a $2,500 fine. He pleaded guilty April 7 after a one-count information was filed March 31.

Chester Wiles was sentenced June 7 in the Eastern District of Pennsylvania to 24 months incarceration for false declaration in bankruptcy, to a concurrent 18-month term of incarceration on 12 other counts, and to five years of supervised release; he was also ordered to pay approximately $225,000 in restitution and a special assessment fine of $1,300. Wiles had assumed the identity of a deceased person and fraudulently obtained deceased person and fraudulently obtained credit in the decedent's name for 2½ years, before filing for bankruptcy twice in the decedent's name. He pleaded guilty to 13 counts including false statement in bankruptcy, bankruptcy fraud, false statements to obtain a HUD-insured mortgage, false statements in loan and credit applications, credit card fraud, wire fraud, interstate transportation of stolen goods, and use of an unassigned Social Security number.

SOUTH CAROLINA

Auctioneer J. Max McCaskill pleaded guilty Nov. 2 in the District of South Carolina to two counts of embezzlement from bankruptcy estates. McCaskill was a former Bankruptcy Court deputy clerk and a former employee of a bankruptcy trustee in South Carolina. While employed to auction bankruptcy estate property, he sold the property but failed to turn over the proceeds to the bankruptcy trustee.

TEXAS

Tronnald Dunnaway of Richardson, Texas, was sentenced Oct. 3 to 13 months in jail and three years supervised release and ordered to pay $23,959 in restitution for his role in a bankruptcy foreclosure scam. Dunnaway pleaded guilty in June on the eve of trial; on June 22, his co-defendant Shelby Daniels was found guilty of 14 counts of bankruptcy fraud in connection with the scam. Daniels and Dunnaway contacted homeowners facing foreclosure, offering to help them with their mortgage problems. They persuaded the homeowners to transfer a part interest in their homes to companies controlled by, or individuals working with, the scam operators. Those companies and individuals then filed for bankruptcy to delay foreclosure on the properties, but the victims ended up losing their homes.

On June 22, after a five-day jury trial, Shelby Daniels of Dallas was found guilty of 14 counts of bankruptcy fraud for his role in a bankruptcy foreclosure scam. Daniels represented himself as a real estate consultant and contacted homeowners facing foreclosure, persuading them to transfer a part interest in their homes to companies he controlled or individuals working with him. The companies and individuals filed for bankruptcy to delay foreclosure. Homeowners paid Daniels a $500 "set up" fee plus $500 per month, assuming he was working to address their mortgage problems. They ended up losing their homes. On the eve of trial, Tronnald Dunnaway, who was indicted with Daniels, pleaded guilty to one count of bankruptcy fraud.

VIRGINIA

Lee W. Smith Sr., the principal in the Chapter 11 case of Lee's Contracting Services Inc., was sentenced Nov. 10 to 21 months in prison after pleading guilty to one count of bankruptcy fraud and one count of tax evasion. Smith diverted monies from the corporation to personal accounts during the pendency of the Chapter 11 case, which was ultimately dismissed because the debtor owed more than $1 million in unpaid employee withholding taxes.

The District Court for the Southern District of West Virginia August 4 sentenced Donald S. Pritt to 30 months imprisonment, three years of supervised release, and restitution of $193,990 following his conviction on one count of mail fraud and two counts of bankruptcy fraud. Pritt claimed to be permanently disabled following an all-terrain vehicle accident. He filed disability insurance claims under several recently issued policies and engaged in litigation with the insurance companies and ATV manufacturer. Pritt was ordered to pay in excess of $600,000 in attorney fees to the manufacturer. The bankruptcy counts arose from his transfer and concealment of assets, which began after the state court litigation and continued during the bankruptcy case.

Ethel Mae Martin was sentenced June 15 in the Eastern District of Virginia to 27 months in prison and 3 years of supervised release for one count of bankruptcy fraud. Martin used at least three Social Security numbers to obtain credit and filed her bankruptcy petition using a fourth SSN.

Elizabeth Baker pleaded guilty June 8 to one count of making a false oath in connection with her bankruptcy. Baker and her husband filed a Chapter 13 petition in 1995; when her husband later died, Baker received over $99,000 in life insurance proceeds. She converted the bankruptcy case to a Chapter 7 liquidation but did not disclose the receipt of funds to the bankruptcy trustee. Baker's bankruptcy discharge was revoked after the trustee discovered the receipt of funds as well as Baker's false testimony that there were no assets other than those listed in the bankruptcy schedules.

WISCONSIN

The Court of Appeals for the Seventh Circuit July 20 upheld the March 1998 conviction of attorney John Gellene for false material declarations in a bankruptcy proceeding, and upheld the trial court's sentencing determinations. Gellene did not disclose that his law firm represented a senior secured creditor as well as the Chapter 11 debtor, giving rise to a conflict of interest in representation. He was convicted after a jury trial in the Eastern District of Wisconsin, sentenced to 15 months in prison, and fined $15,000. In its ruling, the Appeals Court rejected Gellene's argument that his false statements were not material, finding it beyond doubt that "a misstatement in a Rule 2014 statement by an attorney about other affiliations" is material.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2549, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Smith (of New Hampshire) amendment No. 3210, to prohibit granting security clearances to felons.

Warner/Dodd amendment No. 3267, to establish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba.

Levin (for Kennedy) amendment No. 3473, to enhance Federal enforcement of hate crimes.

Hatch amendment No. 3474, to provide for a comprehensive study and support for criminal investigations and prosecutions by State and local law enforcement officials.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut, Mr. DODD, is recognized to offer an amendment, on which there will be 2 hours equally divided.

The Senator from Connecticut.

AMENDMENT NO. 3475

(Purpose: To establish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba)

Mr. DODD. Mr. President, I believe this is the full text of the amendment. I just had several copies made for my colleagues.

Let me inquire of the distinguished Senator from New Hampshire, did he get a copy of the amendment?

Mr. SMITH of New Hampshire. Yes.

Mr. DODD. Mr. President, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3475.

Mr. DODD. 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:

On page 462, between lines 2 and 3, insert the following:

SEC. ___. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON CUBA.

(a) SHORT TITLE.—This section may be cited as the "National Bipartisan Commission on Cuba Act of 2000".

(b) PURPOSES.—The purposes of this section are to—

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) help build the necessary national consensus on a comprehensive United States policy with respect to Cuba.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Bipartisan Commission on Cuba (in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of whom two shall be appointed upon the recommendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representatives.

(C) Six individuals to be appointed by the President.

(3) SELECTION OF MEMBERS.—Members of the Commission shall be selected from among distinguished Americans in the private sector who are experienced in the field of international relations, especially Cuban affairs and United States-Cuban relations, and shall include representatives from a cross-section of United States interests, including human rights, religion, public health, military, business, agriculture, and the Cuban-American community.

(4) DESIGNATION OF CHAIR.—The President shall designate a Chair from among the members of the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chair.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum.