

Pamela A. Carter v. HealthSource Saginaw, except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 222—TO REVISE THE PROCEDURES OF THE SELECT COMMITTEE ON ETHICS

Mr. SMITH of New Hampshire (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 222

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Senate Ethics Procedure Reform Resolution of 1999".

SEC. 2. ESTABLISHMENT AND MEMBERSHIP OF THE SELECT COMMITTEE.

The first section of Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session) (referred to as the "resolution") is amended—

(1) in subsection (c), by amending paragraph (1) to read as follows:

"(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.;"

(2) in subsection (d), by amending paragraph (1) to read as follows:

"(1) A member of the Select Committee shall be ineligible to participate in—

"(A) any preliminary inquiry or adjudicatory review relating to—

"(i) the conduct of—

"(I) such member;

"(II) any officer or employee the member supervises; or

"(III) any employee of any officer the member supervises; or

"(ii) any complaint filed by the member; and

"(B) the determinations and recommendations of the Select Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the Standing Rules of the Senate.;"

(3) in subsection (d)(2), by amending the first sentence to read as follows: "A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review.;" and

(4) in subsection (d), by amending paragraph (3) to read as follows:

"(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such

preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.;"

SEC. 3. DUTIES OF THE SELECT COMMITTEE.

Section 2 of the resolution is amended—

(1) in subsection (a), by striking paragraphs (2), (3), and (4) and inserting the following:

"(2)(A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

"(B) pursuant to subparagraph (A) recommend discipline, including—

"(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

"(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

"(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

"(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

"(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

"(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

"(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.;"

(2) by amending subsection (b) to read as follows:

"(b) For the purposes of this resolution—

"(1) the term 'sworn complaint' means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

"(2) the term 'preliminary inquiry' means a proceeding undertaken by the Select Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the juris-

diction of the Select Committee has occurred; and

"(3) the term 'adjudicatory review' means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.;"

(3) in subsection (c), by amending paragraph (1) to read as follows:

"(1) No—

"(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

"(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

"(C) letter of admonition pursuant to subsection (d)(3) may be issued, unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.;"

(4) by amending subsection (d) to read as follows:

"(d)(1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

"(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

"(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

"(4) If, as the result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).;"

(5) by amending subsection (e) to read as follows:

"(e)(1) Any individual who is the subject of a reprimand or order of restitution, or both,

pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

"(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal."

(6) by amending subsection (g) to read as follows:

"(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee." and

(7) by amending subsection (h) to read as follows:

"(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews."

SEC. 4. AUTHORITY OF THE SELECT COMMITTEE.

Section 3 of the resolution is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel." and

(2) by amending subsection (d) to read as follows:

"(d)(1) Subpoenas may be authorized by—

"(A) the Select Committee; or

"(B) the chairman and vice chairman, acting jointly.

"(2) Any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

"(3) The chairman or any member of the Select Committee may administer oaths to witnesses."

SEC. 5. EFFECTIVE DATE OF AMENDMENTS.

The amendments made by this resolution shall take effect on the date this resolution is agreed to, except that the amendments shall not apply with respect to further proceedings in any preliminary inquiry, initial review, or investigation commenced before that date under Senate Resolution 338, agreed to July 24, 1964 (88th Congress, 2d Session).

AMENDMENTS SUBMITTED

THE BANKRUPTCY REFORM ACT OF 1999

GRASSLEY (AND FEINSTEIN) AMENDMENT NO. 2514

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill (S. 625) to amend title 11, United States Code, and for other purposes; as follows:

Insert at the appropriate place:

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition.

GRASSLEY (AND TORRICELLI) AMENDMENT NO. 2515

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill, S. 625, supra; as follows:

On page 6, line 12, insert "11 or" after "chapter".

On page 6, line 24, insert "11 or" after "chapter".

On page 12, lines 21 and 22, strike "was not substantially justified" and insert "was frivolous".

On page 14, strike lines 8 through 14 and insert the following:

"(C)(i) No judge, United States trustee, panel trustee, bankruptcy administrator, or other party in interest shall bring a motion under section 707(b)(2) if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national or applicable State median household monthly income calculated (subject to clause (ii)) on a semiannual basis of a household of equal size.

"(ii) For a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus \$583 for each additional member of that household."

On page 14, in the matter between lines 18 and 19, insert "11 or" after "chapter".

On page 14, after the matter between lines 18 and 19, insert the following:

SEC. 103. FINDINGS AND STUDY.

(a) FINDINGS.—Congress finds that the Secretary of the Treasury has the inherent authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Director of the Executive Office of United States Trustees, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Secretary concerning the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of those standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Secretary of the Treasury under paragraph (1).

On page 14, line 19, strike "103" and insert "104".

On page 15, line 12, strike "104" and insert "105".

On page 15, lines 9 and 10, strike "credit counseling service" and insert "nonprofit budget and credit counseling agency".

On page 17, line 19, strike "105" and insert "106".

On page 18, lines 3 and 4, strike "credit counseling service" and insert "budget and credit counseling agency".

On page 18, line 5, insert "(including a briefing conducted by telephone)" after "briefing".

On page 18, line 12, strike "credit counseling services" and insert "budget and credit counseling agency".

On page 18, line 12, strike "are" and insert "is".

On page 18, line 15, strike "those programs" and insert "that agency".

On page 18, line 21, insert after the period the following: "Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time."

On page 19, lines 4 and 5, strike "credit counseling service" and insert "budget and credit counseling agency".

On page 21, lines 6 and 7, strike "credit counseling service" and insert "approved nonprofit budget and credit counseling agency".

On page 21, lines 10 and 11, strike "credit counseling service" and insert "approved nonprofit budget and credit counseling agency".

On page 21, line 16, strike "Credit counseling services" and insert "Nonprofit budget and credit counseling agencies".

On page 21, line 19, strike "credit counseling services" and insert "nonprofit budget and credit counseling agencies".

On page 21, line 25, strike the quotation marks and the final period.

On page 21, after line 25, insert the following:

"(b) For inclusion on the approved list under subsection (a), the United States trustee or bankruptcy administrator shall require the credit counseling service, at a minimum—

"(1) to be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(A) are not employed by the agency; and

"(B) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(2) if a fee is charged for counseling services, to charge a reasonable fee, and to provide services without regard to ability to pay the fee;

"(3) to provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(4) to provide full disclosures to clients, including funding sources, counselor qualifications, and possible impact on credit reports;

"(5) to provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts; and