

United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3974

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3974 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3975

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3975 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3977

At the request of Mr. LEVIN, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of amendment No. 3977 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3978

At the request of Mr. JOHNSON, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Kansas (Mr. ROBERTS) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 3978 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 3348. A bill to amend title 38, United States Code, to provide for the treatment of documents that express disagreement with decisions of the

Board of Veterans' Appeals and that are misfiled with the Board within 120 days of such decisions as motions for reconsideration of such decisions, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I am introducing legislation today to protect the rights of appeal by claimants before the United States Court of Appeals for Veterans Claims when claimants erroneously file a document with the Department of Veterans Affairs and the document is not transmitted to the court in a timely fashion.

Under current law, section 7266 of title 38, United States Code, a veteran or other claimant who seeks to have a decision of the Board of Veterans' Appeals reviewed by the U.S. Court of Appeals for Veterans Claims must “file a notice of appeal with the court within 120 days after the date” on which the board mails its decision to the veteran or other claimant.

This measure would respond to a problem identified in a recent decision of the court in the case of Posey v. Shinseki, decided April 23, 2010. In that case, a veteran sent a document purporting to be an appeal to the court to a VA regional office. The document was not forwarded to the court within the 120 day period. VA sought to have the appeal dismissed as untimely filed. However, the court found that the document qualified as a motion for reconsideration by the board.

Judge Lawrence B. Hagel authored a concurring opinion in which he expressed concern with the number of cases in which a claimant's right to appeal to the court had been thwarted because the Secretary had held correspondence from veterans seeking to appeal to the court until after the time for filing had expired. The Secretary would then argue that the claimant's appeal to the court was untimely and should be dismissed. Some of those cases resulted in dismissal of the appeal. Judge Hagel suggested that this problem could be addressed by legislation treating a document as a motion for reconsideration by the Board if it was received by the Secretary and not forwarded to the Court within the 120 day period.

I do not believe that VA has acted deliberately to impede any veteran's right to appeal to the court. However, the failure of VA to notify a veteran promptly of the filing error or to forward the document to the court should not be allowed to deprive a veteran of the right to have a case reviewed on appeal. The bill I am introducing would only apply in those cases where no appeal is filed with the court within the 120-day time period and the board or other VA agency has received during that same 120-day period a document expressing disagreement with the board decision.

I urge our colleagues to support this bill so that any veteran who attempts

to appeal a decision of the Board in a timely fashion does not have his or her attempt thwarted by an error.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3348

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. TREATMENT OF CERTAIN MISFILED DOCUMENTS AS MOTIONS FOR RECONSIDERATION OF DECISIONS BY BOARD OF VETERANS' APPEALS.

Section 7103 of title 38, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c)(1) Except as provided in paragraph (2), if a person adversely affected by a final decision of the Board, who has not filed a notice of appeal with the United States Court of Appeals for Veterans Claims under section 7266(a) of this title within the period set forth in that section, files a document with the Board or the agency of original jurisdiction referred to in section 7105(b)(1) of this title that expresses disagreement with such decision not later than 120 days after the date of such decision, such document shall be treated as a motion for reconsideration of such decision under subsection (a).

“(2) A document described in paragraph (1) shall not be treated as a motion for reconsideration of the decision under paragraph (1) if—

“(A) the Board or the agency of original jurisdiction referred to in paragraph (1)—

“(i) receives the document described in paragraph (1);

“(ii) determines that such document expresses an intent to appeal the decision to the United States Court of Appeals for Veterans Claims; and

“(iii) forwards such document to the United States Court of Appeals for Veterans Claims; and

“(B) the United States Court of Appeals for Veterans Claims receives such document within the period set forth by section 7266(a) of this title.”.

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 521—COMMEMORATING AND CELEBRATING THE LIVES OF DEPUTY SHERIFF STEPHEN MICHAEL GALLAGHER, JR., OFFICER TIMOTHY Q. BRENTON, OFFICER TINA G. GRISWOLD, OFFICER RONALD WILBUR OWENS II, SERGEANT MARK JOSEPH RENNINGER, OFFICER GREGORY JAMES RICHARDS, AND DEPUTY SHERIFF WALTER KENT MUNDELL, JR. WHO GAVE THEIR LIVES IN THE SERVICE OF THE PEOPLE OF WASHINGTON STATE IN 2009

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 521

Whereas law enforcement officers throughout Washington State conduct themselves in