

VETERANS' SMALL BUSINESS ASSISTANCE AND
SERVICEMEMBERS PROTECTION ACT OF 2009

NOVEMBER 2, 2009.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. FILNER, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3949]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3949) to amend title 38, United States Code, and the Servicemember Civil Relief Act, to make certain improvements in the laws relating to benefits administered by the Secretary of Veterans Affairs, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	9
Subcommittee Consideration	11
Committee Consideration	11
Committee Votes	11
Committee Oversight Findings	12
Statement of General Performance Goals and Objectives	12
New Budget Authority, Entitlement Authority, and Tax Expenditures	12
Earmarks and Tax and Tariff Benefits	12
Committee Cost Estimate	12
Congressional Budget Office Estimate	12
Federal Mandates Statement	15
Advisory Committee Statement	15
Constitutional Authority Statement	16
Applicability to Legislative Branch	16
Section-by-Section Analysis of the Legislation	16
Changes in Existing Law Made by the Bill as Reported	19

PURPOSE AND SUMMARY

H.R. 3949 was introduced by Representative Bob Filner of California, Chairman of the Committee on Veterans' Affairs, on October 28, 2009. H.R. 3949 would enhance opportunities for veteran-owned small businesses and extend the authorization for the Veterans' Advisory Committee on Education of the U.S. Department of Veterans Affairs (VA). H.R. 3949 would strengthen protections for servicemembers under the Servicemembers Civil Relief Act (SCRA). H.R. 3949 would improve the outreach activities of the VA, establish a scholarship program in order to increase the pool of educated specialists with a degree or certificate in blind rehabilitation and expand burial benefits provided to the parents of veterans who die in combat or in preparation for combat and who have no other eligible dependent survivors.

H.R. 3949 is comprised of a number of bills introduced in the first session of the 111th Congress. These bills include H.R. 2461, the Veterans Small Business Verification Act, introduced by Representative Stephanie Herseth Sandlin of South Dakota, the Chairwoman of the Subcommittee on Economic Opportunity; H.R. 3223, a bill to amend title 38, United States Code, to improve the Department of Veterans Affairs contracting goals and preferences for small business concerns owned and controlled by veterans, introduced by Representative Steve Buyer of Indiana, the Ranking Member of the Committee; H.R. 2614, the Veterans' Advisory Committee on Education Reauthorization Act of 2009, introduced by Representative Ann Kirkpatrick of Arizona; H.R. 2696, the Servicemembers' Rights Protection Act, introduced by Representative Brad Miller of North Carolina; H.R. 2874, the Helping Active Duty Deployed Act of 2009, introduced by Representative Gerald E. Connolly of Virginia; H.R. 32, the Veterans Outreach Improvement Act of 2009, introduced by Representative Mike McIntyre of North Carolina; H.R. 228, a bill to direct the Secretary of Veterans Affairs to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility, introduced by Representative Sheila Jackson-Lee of Texas; and H.R. 761, the Corey Shea Act, introduced by Representative Barney Frank of Massachusetts.

BACKGROUND AND NEED FOR LEGISLATION

TITLE I—SMALL BUSINESS AND EDUCATION MATTERS

The Veterans Benefits, Health Care, and Information Technology Act of 2006, Public Law 109-461 (120 Stat. 3403), requires the VA to maintain the VetBiz Vendor Information Page (VIP) database containing Veteran Owned Small Business (VOSB) and Service-Disabled Veteran Owned Small Business (SDVOSB). This law also requires the VA to verify that registered firms meet the eligibility requirements to be classified as VOSBs or SDVOSBs to be included in the database.

Eligibility requirements for VOSBs or SDVOSBs include the following: a veteran is a person who has served on active duty with the U.S. military and who was discharged or released under conditions other than dishonorable; a VOSB must be no less than 51 percent owned by one or more veterans, the veteran must manage

and maintain daily business operation; a service-disabled veteran must have a rating between 0–100 percent; a SDVOSB must be no less than 51 percent owned by one or more veterans, the veteran must manage and maintain daily business operation. If a veteran is permanent and totally service-disabled, the spouse or permanent caregiver must manage and maintain daily business operation; and eligibility requirements for VIP verification requires that a small business concern must be owned and controlled by one or more eligible veterans, service-disabled veteran, or surviving spouse.

The purpose of the VIP database is to increase VA contracting opportunities for VOSBs or SDVOSBs by providing a one-stop shop for VA contracting officers looking to provide a set-aside for VOSBs or SDVOSBs.

The Government Accountability Office informed the Committee that if a small business that is owned and controlled by a veteran wants to be listed in the VIP database the business owners must voluntarily request VOSB and SDVOSB verification. Once a business is listed on the VIP database, regardless of whether they have been verified, they may qualify to receive competitive set-asides or sole-source awards. In addition, the VA published a proposed rule on August 20, 2008, which would require the VA to use its set-aside and sole-source award authorities only for VOSB and SDVOSB that have been verified to be owned and controlled by a veteran. Until this rule is finalized, the VA will continue to use its set-aside and sole-source award authorities for VOSB and SDVOSB that are registered in the VIP database but not necessarily verified to be owned and controlled by a veteran.

Recognizing the efforts that the VA has established to verify VOSBs and SDVOSBs, the VA continues to award contracts to businesses that are registered in the VIP database but have yet to be verified.

Section 101 would require the VA to verify small business concerns prior to being listed in the VIP database.

The Federal government has implemented a policy to promote small businesses owned and controlled by groups such as small businesses owned by women, minorities, businesses in specified areas called HUBZones, and businesses owned by service disabled veterans under the Small Business Act (Public Law 85–536 (72 Stat. 384)). Federal agencies are given goals in terms of procurement dollars for each group with a total of 26 percent of Federal contracting dollars to be awarded to small businesses. Recognizing the special obligation to promote SDVOSB, the goal is three percent of procurement spending for each Federal agency under Public Law 106–50 (113 Stat. 233) and Executive Order 13360.

Contracting officers are therefore presented with competing requirements in attempting to meet the set aside goals for the various groups. Meeting those goals is further complicated by statutory language that could be interpreted to give one set aside group priority over others. At a minimum, all small business set aside groups should compete equally without a competitive advantage being given to any one group.

However, statutory language for some groups uses the word “shall” in directing how contracting officers award contracts to certain groups, such as those belonging to section 8(a) of the Small Business Act. This gives section 8(a) businesses a competitive ad-

vantage over SDVOSBs because the statutory language related to SDVOSB set asides uses the word “may” and contracting officers interpret the law as requiring them to give 8(a) firms a higher priority than SDVOSB.

Therefore, Congress enacted Public Law 109–461 to make it easier for contracting officers at the VA to meet and exceed the three percent goal for SDVOSB by adding new sections 8127 and 8128 to title 38, United States Code. These sections established SDVOSB as the priority for VA contracting goals and provided additional tools for VA Contracting Officers to award contracts to qualified SDVOSB.

Section 102 of H.R. 3949 would amend section 8127(c) of title 38, United States Code, by changing the word “may” to “shall,” thereby giving VA contracting officers the authority to award contracts to SDVOSBs on an equal footing with small businesses operating under section 8(a) of the Small Business Act.

This section would also direct the Secretary of VA to issue interim guidance not later than 30 days after enactment of this Act. The Committee notes that it has taken nearly three years for VA to partially implement the database provisions of Public Law 109–461 and finds such delay unacceptable. The result is that qualified veteran and disabled veteran-owned businesses have not been able to take advantage of the provisions of Public Law 109–461.

Section 103 of H.R. 3949 would reauthorize the Veteran’s Advisory Committee on Education for six years. The authority for this Committee is slated to expire on December 31, 2009. This section would extend this authorization to December 31, 2015.

For nearly 30 years, the Veteran’s Advisory Committee on Education has provided the Secretary of the U.S. Department of Veterans Affairs (VA) with advice on the administration of education and training entitlements available under the VA’s jurisdiction.

The current makeup on the Advisory Committee consists of professionals with strong credentials in education, labor and management, along with representatives of institutions that provide education to eligible veterans under programs administered by the VA.

Some of the education programs that the Advisory Committee has provided valuable feedback include the Post-Vietnam Era Veterans Education Assistance Program; Montgomery G.I. Bill, Montgomery G.I. Bill—Select Reserves, Post-9/11 G.I. Bill, and Survivors’ and Dependents’ Educational Assistance Program. In addition to these programs, the Committee may also review the administration of the Vocational Rehabilitation and Employment, and Veteran Work-Study Programs which also provide education and training opportunities for military veterans.

In the 110th Congress, both the House and Senate were considering several significant pieces of legislation to augment education entitlements for servicemembers and veterans. At the same time, the Advisory Committee was able to provide the Secretary of VA Secretary with timely advice on several of these proposals in addition to conducting town hall meetings to hear directly from stakeholders interested in the education benefits. As Congress continues to provide oversight on the implementation of new education entitlements and considers legislation to improve existing programs, it is important for the Secretary to have the continued guidance provided by the Veterans’ Advisory Committee on Education.

The Advisory Committee was last reauthorized with the passage of the Veterans Benefits Act of 2003, Public Law 108–183 (117 Stat. 2651) which provided a six-year extension from December 31, 2003 to December 31, 2009. On September 24, 2009, the Subcommittee on Economic Opportunity held a legislative hearing in which Mr. Keith Wilson, Director, Office of Education Service of the VA, testified on the Administration’s support of reauthorizing the advisory committee.

TITLE II—SERVICEMEMBERS CIVIL RELIEF ACT MATTERS

During the 110th Congress, Representative Patrick Murphy of Pennsylvania introduced H.R. 3298, the 21st Century Servicemembers Protection Act. This legislation sought to amend the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) (SCRA) to cover service contracts such as cellular phone service, utilities, cable television, or internet access. Similar to provisions in section 305 of the SCRA that govern residential leases and automobile leases, this legislation would allow servicemembers with deployment orders to terminate or suspend their service contracts without fee or penalty.

H.R. 3298 also sought to add specific penalties for creditors who refuse to reduce interest rates as they are already required to do under the SCRA. If a creditor knowingly or negligently fails to reduce interest rates upon notification from a servicemember with deployment orders, that creditor may be exposed to criminal penalties or civil damages.

On April 16, 2008, Representative Murphy testified before the Subcommittee on Economic Opportunity at a legislative hearing:

Soon after my election to Congress, a JAG [Judge Advocate General] attorney who does legal assistance in the 101st Airborne contacted me to let me know about a growing problem that many deployed servicemembers are currently facing.

He explained to me that many of the soldiers he worked with have had their credit reports damaged during their deployments over issues concerning their contracts with cellular telephone or internet service providers. This JAG attorney was able to put one of his own contracts on hold during his deployment, but to do so he was forced to pay a costly fee.

Looking into this further, I also discovered that some financial institutions were slow or unwilling to reduce servicemembers’ interest rates during their deployments, even though these creditors are already required to do so by law.

I learned that when servicemembers and their families ran into problems with service providers and creditors, they not only had to deal with the strain of deployment, but also faced repeated harassment by collection agencies.

Provisions of H.R. 3298 were included in Public Law 110–389 (122 Stat. 4145) which inserted a new section 305A titled “Termination or Suspension of Contracts for Cellular Telephone Service” in the SCRA. This provision allowed deployed servicemembers the option to request a termination of their cellular phone contracts if

they are deployed outside of the continental United States for a period of not less than 90 days. The remaining provisions of H.R. 3298 were not enacted into law during the remainder of the 110th Congress.

In the 111th Congress, Representative Brad Miller of North Carolina introduced H.R. 2696, the Servicemembers' Rights Protection Act, on June 4, 2009. This legislation seeks to amend the SCRA to add a new title authorizing the U.S. Attorney General to bring a civil action in U.S. district court to enforce provisions of the Act.

During the September 24, 2009, legislative hearing of the Subcommittee on Economic Opportunities, Representative Miller testified in favor of the need to explicitly state that there is a private cause of action in the SCRA, cited a Congressional Research Service Report (R40456, published March 23, 2009) which stated:

In *Batie v. Subway Real Estate Corp* [2008 U.S. Dist. LEXIS 11458 (N.D. Tex. February 15, 2008)] a servicemember alleged that Subway Corporation violated the SCRA by evicting him from two commercial spaces while he was deployed to Afghanistan. After obtaining declaratory judgments in the State of Texas courts, Subway evicted the servicemember from the spaces under lease. Batie filed suit in the federal district court seeking relief from the declaratory judgments and for compensatory and punitive damages for the alleged violations of the SCRA. The U.S. district court declined to overturn the state declaratory judgments, stating "Congress envisioned that state courts—not federal district courts—would decide claims involving SCRA's tenant protections during eviction proceedings." The court interpreted the act to mean that jurisdiction is not exclusive in federal court and that the act does not compel federal adjudication of all cases implicating the statute's provisions. Denying the claim for compensatory and punitive damages, the court referred to the failure of the servicemember to cite any provisions in the SCRA authorizing damages. Further, the court found that, even if the servicemember maintains the SCRA as a basis for damages, "there is no provision in SCRA that authorizes a private cause of action to remedy violations of the statute."

The servicemember's claims were dismissed by the court. However, Batie filed a Motion for Reconsideration citing cases in which courts have interpreted certain sections of the SCRA to create a private cause of action. In light of the precedent cited by Batie's motion, the court vacated its earlier decision and reinstated the complaint for further adjudication. [Footnotes omitted].

At that same hearing, another witness, Colonel Robert Norton (Retired), Deputy Director for Government Relations, Military Officers Association of America, provided testimony for the hearing record that cited another court case:

In a 2008 case (*Hurley v. Deutsche Bank Trust Company*), [2008 U.S. Dist. LEXIS 80526 (W.D. Mich. September 30, 2008)] National Guard Sergeant James Hur-

ley's house was foreclosed and his dependents were evicted from the property, and the property was sold to a third party during his deployment to Iraq. Sergeant Hurley sued in federal district court in Michigan seeking damages for violation of his rights under the SCRA. The federal court ruled, however, that there is no "right of private cause of action" to enforce violations of the SCRA. Although this case ultimately was resolved in favor of Sergeant Hurley, it points out that some courts do not recognize a right of private cause of action under the SCRA.

Various sections of the SCRA include provisions providing for penalties for violations of the afforded protections. The Act does not specifically state who may bring an application for relief, nor does it specifically exclude private individuals from filing a cause of action. Some courts considering the issue have found that a private cause of action exists under the SCRA but other courts disagree.

The split in the U.S. district courts creates uncertainty in how the Act may be enforced in the future. In many jurisdictions across the country it may be unclear whether a servicemember has the right to bring a private cause of action for violations of the SCRA. This ambiguity is likely to persist if the courts continue to reach different conclusions on the right to bring a private cause of action. Congress seeks to provide guidance to the courts by clarifying the purpose and intent of the Act, and unambiguously state that a private cause of action does exist.

On June 15, 2009, Representative Gerald E. Connolly of Virginia introduced H.R. 2874, Helping Active Duty Deployed Act of 2009, which would permit a veteran to terminate a family cell phone plan, residential, commercial or motor vehicle lease without penalties and requires institutions of higher learning to provide a refund to a veteran where academic credit is not given due to military service.

On September 24, 2009, Representative Connolly testified before the Subcommittee on Economic Opportunity on his legislation:

[H.R. 2874] would provide consistent protections within the SCRA for troops who need to terminate a residential or motor vehicle lease due to deployment or change of station. The SCRA already permits the cancellation of motor vehicle leases and prohibits early termination penalties. It also permits cancellation of residential leases, but it does not provide protection from early termination fees. Just as with automobile leases, servicemembers are not choosing to end these contracts before they are fulfilled. They are doing so because they have been ordered by the United States government to deploy into combat or change stations, and they should not face a penalty for obeying the call to duty.

Section 201 of H.R. 3949 would allow a servicemember to terminate certain service contracts if the servicemember has received orders to deploy for a period of not less than 90 days, or a change of duty station that does not support such service;

Section 202 would revise provisions concerning arrearages and other obligations to prohibit a lessor from charging an early termination charge with respect to a residential, professional, business,

or agricultural rental lease or a motor vehicle lease entered into by a person who subsequently enters military service, or for a servicemember who has received orders for permanent change of station or for deployment in support of a military operation.

Section 203 would amend the SCRA to authorize the Attorney General to bring a civil action in U.S. district courts to enforce provisions of the Act to include restraining orders and injunctions, damages, and penalties. This section would also explicitly provide that there is a private right of action for violations of the SCRA.

TITLE III—OTHER BENEFITS MATTERS

Section 301 of H.R. 3949 would help improve the outreach activities of the VA. With more than 23 million veterans who have served this country, the VA is faced with the challenge of informing and helping veterans and their families apply for the benefits and programs available through the VA. The ability of the VA to execute its mission is often hindered by a lack of internal coordination among the Veterans Health Administration, Veterans Benefits Administration, and the National Cemetery Administration.

Representative Mike McIntyre of North Carolina introduced H.R. 67 in the 110th Congress to help the VA improve its outreach efforts. The bill was introduced on January 4, 2007, and passed the House of Representatives on May 23, 2007. In the 111th Congress, Mr. McIntyre introduced the identical measure as H.R. 32 on January 6, 2009.

Section 301 would require internal coordination of the VA's outreach activities, and would create a grant program for State and county veterans' agencies to assist with the VA's outreach efforts. As part of the grant program, the Committee urges the Secretary of VA to solicit input from, and work closely with, State and county officials during the development of annual outcome measures. The Committee expects the performance and outcome measurement process to be a collaborative one.

Section 302 of H.R. 3949 would provide for the establishment of a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility. This provision would encourage individuals to enter the field of blind rehabilitation so that they can help legally blind veterans. There are estimated to be 160,000 blind veterans, of which approximately 35,000 are enrolled in the VA to receive health care services. Because the most prevalent cause of legal blindness and low-vision is age-related, it is estimated that the incidence of blindness among the veteran population will increase by nearly 50 percent over the next few years.

Although laws have been enacted in previous sessions of Congress to provide for specialists who can help veterans with low-vision or blindness, the VA has not been able to meet the statutory requirements because of the lack of specialists with the necessary education and training. Public Law 104-262 (110 Stat. 3177), the Veterans Health Care Eligibility Reform Act of 1996, required the VA to maintain its capacity to provide specialized rehabilitative services to disabled veterans. In addition, Public Law 109-461 (120 Stat. 3403), the Veterans Benefits, Health Care, and Information Technology Act of 2006, included a provision to increase the num-

ber of Blind Rehabilitation Outpatient Specialists serving our nation's veterans.

During the 110th Congress, Representative Sheila Jackson-Lee of Texas introduced H.R. 1240 on February 28, 2007, which was passed by the House of Representatives as part of H.R. 1315 on July 30, 2007. In the 111th Congress, Ms. Jackson-Lee reintroduced the scholarship bill as H.R. 228 on January 7, 2009.

Section 303 of H.R. 3949 would amend section 2402 of title 38, United States Code, to expand burial benefits provided by the VA to the parents of veterans who die in combat or in preparation for combat and who have no other eligible dependent survivors.

Currently, the spouse or surviving spouse of an eligible veteran is allowed interment in a national cemetery even if the veteran is not buried or memorialized in a national cemetery. Also, certain minor children and unmarried adult children may be buried in a national cemetery. Former spouses and other family members are excluded, including parents. Waivers may be requested to this policy from the VA, but can only be bestowed after the survivor dies.

H.R. 761 was introduced on January 28, 2009, by Representative Barney Frank of Massachusetts, on behalf of his constituent, Mrs. Denise Anderson. On November 12, 2008, Mrs. Anderson's son, Specialist Corey Shea was killed by an Iraqi Army soldier in uniform in Mosul. Specialist Shea was 21 years old. Mrs. Anderson filed a formal request with VA to be buried with her son when she died based upon the fact that he had no other dependents eligible for this burial benefit. VA denied her request.

The adopted language reflects the Committee's intent to avoid displacing veterans entitled to burial in national cemeteries. It specifically limits the eligibility to this benefit to the biological father or mother or in the case of adoption, a father through adoption or mother through adoption and limits placement of qualifying deceased parents to the gravesite of the fallen servicemember. It also grants the Secretary discretion to determine whether space is available to confer the benefit and requires the Secretary of VA in consultation with the Secretary of the U.S. Department of Defense to provide guidance by which a qualifying parent may be designated for interment in a national cemetery. The provisions of section 303 would apply to qualifying parents who die on or after the date of enactment of this Act and whose son or daughter were hostile casualties or die of a training-related injury on or after October 7, 2001. The Committee intends that the Secretary of VA will ensure that no veteran shall be displaced to comply with conferring this benefit. The Committee also intends that no more than two parents may be eligible for this benefit. Further, the Committee intends that the Secretary exercise discretion in furtherance of fairness when administering these provisions to recognize the unique burden on surviving parents of our fallen servicemembers.

HEARINGS

On September 24, 2009, the Subcommittee on Economic Opportunity conducted a legislative hearing on a number of bills introduced during the 111th Congress, including H.R. 2461, H.R. 2614, H.R. 2696, H.R. 2874, and H.R. 3223. The following witnesses testified: The Honorable Bob Filner of California, Chairman of the Committee on Veterans' Affairs; The Honorable Ciro D. Rodriguez of

Texas; The Honorable John R. Carter of Texas; The Honorable Brad Miller of North Carolina; The Honorable David Loeb sack of Iowa; The Honorable Gerald E. Connolly of Virginia; Ms. Lynn M. Schubert, President, The Surety and Fidelity Association of America; Mr. Mark Walker, Assistant Director, Economic Commission, The American Legion; Mr. Justin Brown, Legislative Associate, Veterans of Foreign Wars of the U.S.; Mr. John L. Wilson, Associate National Legislative Director, Disabled American Veterans; Mr. Richard F. Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America; Ms. Christina M. Roof, National Deputy Legislative Director, AMVETS; Mr. Uldric L. Fiore, Jr., Director, Soldier and Family Legal Services, Office of the Judge Advocate General, U.S. Army, U.S. Department of Defense; Mr. Keith M. Wilson, Director, Office of Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; accompanied by Mr. F. John Brizzi, Jr., Deputy Assistant General Counsel, U.S. Department of Veterans Affairs; Ms. Gail Wegner, Acting Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Veterans Affairs. Those submitting statements for the record include: Mr. John M. McWilliam, Deputy Assistant Secretary, Veterans' Employment and Training Service, U.S. Department of Labor; Mr. Jot D. Carpenter, Jr., Vice President, Government Affairs, CTIA—The Wireless Association®; Mr. Patrick Campbell, Chief Legislative Counsel, Iraq and Afghanistan Veterans of America; Military Officers Association of America; Mr. Mark McCallum, General Counsel and Director of Government Relations, National Association of Surety Bond Producers; Mr. John S. Odom, Jr., Jones, Odom, Davis and Politz, L.L.P., Shreveport, Louisiana; and, Mr. Brian Hawthorne, Legislative Director, Student Veterans of America.

On October 8, 2009, the Subcommittee on Disability Assistance and Memorial Affairs held a legislative hearing on a number of bills introduced during the 111th Congress, including H.R. 761. The following witnesses testified: The Honorable Barney Frank of Massachusetts, accompanied by Mrs. Denise Anderson of Mansfield, Massachusetts (Gold Star Mother); The Honorable Brian Higgins of New York; The Honorable Bruce E. Kasold, Judge, U.S. Court of Appeals for Veterans Claims; Mr. Bart F. Stichman, Joint Executive Director, National Veterans Legal Services Program; Mr. John L. Wilson, Assistant National Legislative Director, Disabled American Veterans; Ms. Lesley Witter, Director of Political Affairs, National Funeral Directors Association; Mr. Richard F. Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America; Ms. Vivianne Cisneros Wersel, Au.D., Chair, Legislative Committee, Gold Star Wives of America, Inc.; Mr. Thomas Zampieri, Ph.D., Director of Government Relations, Blinded Veterans Association; Mr. Richard Paul Cohen, Executive Director, National Organization of Veterans' Advocates, Inc.; Mr. Steve L. Muro, Acting Under Secretary for Memorial Affairs, National Cemetery Administration, U.S. Department of Veterans Affairs; The Honorable James P. Terry, Chairman, Board of Veterans' Appeals, U.S. Department of Veterans Affairs, Mr. Thomas Pamperin, Deputy Director, Policy and Procedures, Compensation and Pension Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs, accompanied by Mr. Richard Hipolit, Assistant Gen-

eral Counsel, Office of General Counsel, U.S. Department of Veterans Affairs. Those submitting statements for the record include: The Honorable Bob Filner of California, Chairman, Committee on Veterans' Affairs; The Honorable Christopher J. Lee of New York; Military Officers Association of America; National Military Family Association; Paralyzed Veterans of America; and, Ms. Deirdre Parke Holleman, Executive Director, The Retired Enlisted Association.

SUBCOMMITTEE CONSIDERATION

On October 8, 2009, the Subcommittee on Economic Opportunity met in an open markup session and ordered H.R. 2461, H.R. 2614, H.R. 2696, as amended, and H.R. 2874, as amended, favorably forwarded to the full Committee by voice vote. During consideration of these bills the following amendments were offered:

An amendment in the nature of a substitute to H.R. 2696, offered by Mr. Perriello of Virginia to expand the list of covered contracts to include telephone, internet, cable and certain utility services that are not available in the new assigned duty station, was agreed to by voice vote.

An amendment in the nature of a substitute to H.R. 2874, offered by Mr. Perriello of Virginia to allow servicemembers being deployed or who received permanent change of station to cancel their cellular phone on a family contract without affecting the service provided to the family who will remain in their current residence. This amendment also removed the provision that provided tuition relief for post-secondary students called to military service to prevent a dual referral with the Committee on Education and Labor, was agreed to by voice vote.

On October 21, 2009, the Subcommittee on Disability Assistance and Memorial Affairs met in open markup session and ordered favorably forwarded to the full Committee H.R. 761, as amended. During consideration of this bill the following amendment was offered:

An amendment in the nature of a substitute to H.R. 761, offered by Mr. Hall of New York, was agreed to by voice vote.

COMMITTEE CONSIDERATION

On October 28, 2009, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 3949 reported favorably to the House of Representatives, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 3949 reported to the House. A motion by Mr. Buyer of Indiana to order H.R. 3949 reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3949 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3949 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3949 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 29, 2009.

Hon. BOB FILNER,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3949, the Veterans' Small Business Assistance and Servicemembers Protection Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Camille Woodland.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 3949—Veterans’ Small Business Assistance and Servicemembers Protection Act of 2009

Summary: H.R. 3949 would affect several veterans programs including outreach, education, and burial benefits. The bill also would amend laws pertaining to veteran-owned small businesses and the Servicemembers Civil Relief Act. CBO estimates that implementing this legislation would cost \$81 million over the 2010–2014 period, assuming appropriation of the necessary amounts. The bill also contains provisions that would increase both direct spending and revenues, but CBO estimates that those impacts would be insignificant.

H.R. 3949 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of the mandates would not exceed the thresholds established in UMRA for intergovernmental or private-sector mandates (\$69 million and \$139 million, respectively, in 2009, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3949 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ¹						
Veterans’ Outreach:						
Authorization Level	0	25	25	25	0	75
Estimated Outlays	0	8	21	30	14	73
Visual Impairment Education Assistance Program:						
Estimated Authorization Level	1	1	2	2	2	8
Estimated Outlays	1	1	2	2	2	8
Total Changes:						
Estimated Authorization Level	1	26	27	27	2	83
Estimated Outlays	1	9	23	32	16	81

¹ Enacting H.R. 3949 also would have an insignificant effect on direct spending and revenues.

Basis of estimate: H.R. 3949 contains provisions that would increase discretionary spending for programs administered by the Department of Veterans Affairs (VA). CBO assumes that this legislation will be enacted near the beginning of fiscal year 2010, that the specified authorizations will be appropriated near the start of each fiscal year, and that outlays will follow historical spending patterns for similar programs.

Spending subject to appropriation

Veterans’ Outreach. Section 301 would allow VA to provide grants to state veterans agencies to improve outreach activities, particularly in areas with large or growing populations of veterans and their dependents. The purpose of the outreach would be to ensure that those individuals are fully informed about their eligibility for veterans’ benefits and programs. The provision would authorize the appropriation of \$25 million for each of 2011, 2012, and 2013. The grants could be used to:

- Allow VA to enter into contracts with state veterans agencies to carry out, improve, coordinate, or enhance outreach by VA;

- Allow state veterans agencies to issue grants to local governments for outreach activities;
- Allow states to establish a program for local governments to provide outreach to veterans;
- Allow state veterans agencies to perform outreach activities in a local area if the local government elects not to participate in the grant program; and
- Provide education and training for state and local government employees to provide outreach services.

Such grants to states could provide no more than 50 percent of the cost of the state and local outreach activities and should not replace existing state and local funding for those purposes. Also, no portion of the grant could be used for administrative purposes such as salaries for employees. CBO estimates that implementing section 301 would cost \$73 million over the 2010–2014 period, assuming appropriation of the specified amounts.

Visual Impairment Education Assistance Program. Section 302 would direct VA to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment or orientation and mobility. Section 302 also would require VA to publicize the program. The scholarship would pay up to \$15,000 per year for an eligible full-time student for up to six years. Under the program, the maximum financial assistance that VA would provide for any student would be \$45,000, and the scholarship recipients would be required to work for VA for at least three years upon completion of the degree or certificate program.

There are about 40 schools that offer certificate or degree programs in visual impairment or orientation and mobility (mostly master's degree programs), each with an average of about five students per program. Most of those schools currently provide some form of financial aid for students in those programs. CBO assumes that at least one new student per year per master's program would be eligible for the VA scholarship, as well as 10 undergraduates per year. On that basis, CBO estimates that implementing the scholarship program, including outreach, would increase spending subject to appropriation by about \$8 million over the 2010–2014 period.

Clarification of Veterans Status for Inclusion in VA Database. Section 101 would require VA to verify the veteran status of the owners of the small businesses included in the database of veteran-owned and service-disabled veteran-owned businesses. Any business where such status cannot be verified would be removed from the database until it was confirmed. CBO estimates that any costs associated with section 101 would be insignificant.

Veterans' Advisory Committee on Education. Section 102 would extend the existence of the Veterans' Advisory Committee on Education until December 31, 2015. Under current law, the committee would remain authorized only through the end of 2009. CBO estimates that enacting this section would have no significant impact on the federal budget.

Direct spending

Section 303 would allow the biological or adopted parents of a veteran who died after October 7, 2001, to be interred at the same gravesite as the veteran—assuming there is space available—if the veteran:

- Is interred in a national cemetery;
- Does not have a spouse, surviving spouse, or child who is buried or may be eligible for burial in a national cemetery; and
- Died in combat or from a training-related injury.

Under current law, parents of deceased veterans are not eligible for burial in national cemeteries.

Based on information from the Department of Defense and VA on combat- and training-related deaths, marriage rates, parent mortality rates, and interment rates in VA cemeteries, CBO estimates that very few additional individuals would become eligible for interment in national cemeteries if section 303 was enacted. Therefore, CBO estimates that this provision would have an insignificant impact on direct spending.

Revenues

Section 203 would permit the Attorney General to bring a civil action against certain violators of the Servicemembers Civil Relief Act (Public Law 108–189). Because violators of the act could be subject to civil fines, the federal government might collect additional fines if the bill is enacted. Collections of civil fines are recorded in the budget as revenues. CBO expects that any additional revenues would not be significant because of the relatively small number of cases likely to be affected.

Intergovernmental and private-sector impact: H.R. 3949 would impose intergovernmental and private-sector mandates as defined in UMRA. It would prohibit residential utilities (some of which are publically owned), and cellular telephone, telephone change, and multichannel video programming service providers from imposing early termination fees or reconnection charges when servicemembers cancel contracts. It also would require providers to refund fees paid in advance. The bill also would prohibit real property and motor vehicle lessors from imposing early termination fees and require them to accept payments for unpaid amounts on a prorated basis. CBO estimates that the costs of the mandates would not exceed the thresholds established in UMRA for intergovernmental or private-sector mandates (\$69 million and \$139 million respectively, in 2009, adjusted annually for inflation).

Estimate prepared by: Federal costs: Mark Grabowicz, Camille Woodland, and Dwayne Wright; Impact on state, local, and tribal governments: Burke Doherty and Lisa Ramirez-Branum; Impact on the private sector: Elizabeth Bass.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3949 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3949.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for H.R. 3949 is provided by Article I, section 8 of the Constitution of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

TITLE I—SMALL BUSINESS AND EDUCATION MATTERS

Section 101. Clarification of responsibility of Secretary of Veterans Affairs to verify small business

This section would clarify current law that the Secretary will not include a small business in the Vendor Information Page database unless it has been verified that the small business is owned and controlled by a veteran. If a veteran owns and controls a small business and indicates the person is a veteran with a service-connected disability, the Secretary would be required to verify this information.

This section directs the Secretary to verify a small business concern no later than 60 days after the date of the enactment of this Act. The Secretary must notify the individual who owns and controls the small business concern: that a verification is required; a verification requires the person who owns and controls the small business concern to apply for inclusion in the database; the application for inclusion in the database will grant the Secretary permission to access personal information to verify information in the application; a person who owns and controls the small business must respond to the Secretary of VA within 90 days that they understand the requirements or they will be removed from the database.

Section 102. Improvement of Department of Veterans Affairs contracting goals and preferences for small business concerns owned and controlled by veterans

This section would amend section 8127(c) of title 38, United States Code, by changing the word “may” to “shall” and direct the Secretary of VA to issue interim guidance not later than 30 days after enactment of this Act.

Section 103. Reauthorization of Veterans’ Advisory Committee on Education

This section reauthorizes the VA’s Veterans’ Advisory Committee on Education through 2015.

TITLE II—SERVICEMEMBERS CIVIL RELIEF ACT MATTERS

Section 201. Termination of service contracts

This section would amend section 305A of the Servicemembers Civil Relief Act to allow a servicemember to terminate certain serv-

ice contracts if the servicemember has received military orders to deploy for a period of not less than 90 days, or a change of duty station that does not support such service. Furthermore, it allows a servicemember to keep the phone number to the extent practicable and in accordance with applicable law.

Covered contracts in this section include cellular telephone service (including family plans with the servicemember), telephone service, multi-channel video programming service and internet service. This also includes home water, electricity, home heating oil and natural gas services.

This section requires the servicemember to deliver a written notice of termination of service contract and military order to the service provider by hand delivery, private carrier, fax, U.S. Postal Service with return receipt request and sufficient postage. Termination of the service contract is effective on the date that such notice is delivered.

This section also prevents the service provider from imposing an early termination charge, but allows for the service provider to collect appropriate tax, obligation or liability under the contract. It allows the servicemember to re-subscribe, without reinstatement charges, within 90 days of redeployment after the end of deployment or change of duty station has concluded. It also requires the service provider to return any advance payment fees within 60 days after the termination date.

Section 202. Residential and motor vehicle leases

This section would amend subsection (e) of section 305 of the Servicemembers Civil Relief Act to revise provisions concerning arrearages and other obligations to prohibit a lessor from charging an early termination charge with respect to a residential, professional, business, or agricultural rental lease or a motor vehicle lease entered into by a person who subsequently enters military service, or for a servicemember who has received orders for permanent change of station or for deployment in support of a military operation. This section would provide that lease amounts for a period preceding the lease termination shall be paid on a pro-rated basis; and that unpaid lease charges shall be paid by the lessee.

Section 203. Enforcement by the Attorney General and by private right of action

This section amends the Servicemembers Civil Relief Act to add a new title, Title VIII—Civil Liability, at the end of the Act. This new title would include three new sections: section 801, section 802, and section 803.

New section 801 would authorize the U.S. Attorney General to bring a civil action in U.S. district court to enforce provisions of the Act. It also authorizes the court to grant appropriate relief to include money damages. Penalty fees for the first violation will not exceed \$55,000 and \$110,000 for any subsequent violation. This section provides the intervenor rights to aggrieved person for a civil action that has already been started.

New section 802 would clarify that a person has a private right of action to file a civil action for violations under the Servicemembers Civil Relief Act. The court may award costs and attorney fees to the prevailing party.

New section 803 would provide that the rights granted under sections 801 or 802 will not limit or exclude any other rights that may also be available under Federal or state law.

TITLE III—OTHER BENEFITS MATTERS

Section 301. Improvement of outreach activities within Department of Veterans Affairs

This section would require the Secretary of the VA to establish and annually review a plan to coordinate outreach activities between the VA's Office of the Secretary, Office of Public Affairs, Veterans Health Administration, Veterans Benefit Administration, and National Cemetery Administration.

This section would authorize appropriations of \$25,000,000 for fiscal years 2011, 2012, and 2013 for the VA to establish a grant program for State or county veterans' agencies. The grantees, in turn, are to coordinate, improve, or otherwise enhance outreach activities. This includes outreach activities to help inform veterans and their families about the benefits and programs for which they are eligible and to assist them in applying for these benefits and programs. This grant may fund no more than 50 percent of the total costs of State and local government outreach activities, and may not supplant existing state and local funds for outreach activities.

Finally, this section would establish a separate appropriations account for outreach activities. This means that the VA would be required to submit budget justification materials to Congress which would include a separate statement of the amount requested to be appropriated for outreach activities.

Section 302. Visual Impairment and Orientation and Mobility Professionals Education Assistance Program

This section would require the VA to establish and carry out a scholarship program for individuals who are accepted or currently enrolled in a program leading to a degree or certificate in visual impairment or orientation and mobility, or a dual degree or certification in both areas. Scholarship recipients must also agree to work in the VA as full-time employees for three years upon completing their education. The financial assistance provided through this scholarship would cover the tuition and fees, with the maximum assistance set at \$15,000 per academic year and \$45,000 in total. Those who fail to complete their education or fulfill their service requirements would be required to repay the VA an amount equal to the unearned portion of such assistance. This may be waived if the Secretary determines that the noncompliance was due to circumstances beyond the control of the scholarship recipient.

Section 303. Interment in national cemeteries of parents of certain deceased veterans

Subsection (a) of section 303 would provide the short title of this section as the "Corey Shea Act."

Subsection (b) would give the Secretary of VA the discretion to provide space available burial benefits to qualifying parents in the gravesite of their deceased son or daughter who died in combat or died of a combat-related training injury and who has no other eligi-

ble survivors as identified under section 2402(5) of title 38, United States Code. The term parent would mean the biological mother or father or in the case of adoption, the adoptive mother or father. Subsection (c) would require the Secretary of VA, in consultation with the Secretary of Defense, to develop guidance to allow designation for this benefit. Subsection (d) would make necessary conforming amendments. Subsection (e) would establish an effective date for the death of a qualifying parent that occurs on or after the date of enactment and where the fallen son or daughter died on or after October 7, 2001.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART I. GENERAL PROVISIONS

Chap.		Sec.
1. General		101
* * * * *		

PART V. BOARDS, ADMINISTRATIONS, AND SERVICES

* * * * *		
80. <i>Visual Impairment and Orientation and Mobility Professionals Education Assistance Program</i>		8001.
* * * * *		

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) * * *

* * * * *

(3) chapters 11, 13 (except section 1312(a)), 23, and 24 (to the extent provided for in section 2402(8) section 2402(a)(8)) of this title.

Except as provided in subsection (c) or (d), payments under such chapters shall be made at a rate of \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of \$0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that such member's service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Secretary except—

(1) * * *

(2) chapters 11, 13 (except section 1312(a)), 23, and 24 (to the extent provided for in section 2402(8) section 2402(a)(8)) of this title.

* * * * *

CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

SUBCHAPTER I—GENERAL AUTHORITIES

Sec.

501. Rules and regulations.

* * * * *

SUBCHAPTER IV—OUTREACH ACTIVITIES

- 561. Outreach activities: coordination of activities within the Department.
- 562. Outreach activities: cooperative activities with States; grants to States for improvement of outreach.
- 563. Outreach activities: funding.
- 564. Definition of outreach.
- 565. Authorization of appropriations.

* * * * *

SUBCHAPTER IV—OUTREACH ACTIVITIES

§561. Outreach activities: coordination of activities within the Department

(a) COORDINATION PROCEDURES.—The Secretary shall establish and maintain procedures for ensuring the effective coordination of the outreach activities of the Department between and among the following:

- (1) The Office of the Secretary.
- (2) The Office of Public Affairs.
- (3) The Veterans Health Administration.
- (4) The Veterans Benefits Administration.
- (5) The National Cemetery Administration.

(b) ANNUAL REVIEW OF PROCEDURES.—The Secretary shall—

(1) annually review the procedures in effect under subsection (a) for the purpose of ensuring that those procedures meet the requirements of that subsection; and

(2) make such modifications to those procedures as the Secretary considers appropriate in light of such review in order to better achieve that purpose.

§562. Outreach activities: cooperative activities with States; grants to States for improvement of outreach

(a) *PURPOSE.*—It is the purpose of this section to provide for assistance by the Secretary to State and county veterans agencies to carry out programs in locations within the respective jurisdictions of such agencies that offer a high probability of improving outreach and assistance to veterans, and to the spouses, children, and parents of veterans, to ensure that such individuals are fully informed about, and assisted in applying for, any veterans' and veterans-related benefits and programs (including State veterans' programs) for which they may be eligible.

(b) *PRIORITY FOR AREAS WITH HIGH CONCENTRATION OF ELIGIBLE INDIVIDUALS.*—In providing assistance under this section, the Secretary shall give priority to State and county veteran agencies in locations—

(1) that have relatively large concentrations of populations of veterans and other individuals referred to in subsection (a); or

(2) that are experiencing growth in the population of veterans and other individuals referred to in subsection (a).

(c) *CONTRACTS FOR OUTREACH SERVICES.*—The Secretary may enter into a contract with a State or county veterans agency in order to carry out, coordinate, improve, or otherwise enhance outreach by the Department and the State or county (including outreach with respect to a State or county veterans program). As a condition of entering into any such contract, the Secretary shall require the agency to submit annually to the Secretary a three-year plan for the use of any funds provided to the agency pursuant to the contract and to meet the annual outcome measures developed by the Secretary under subsection (d)(4).

(d) *GRANTS.*—(1) The Secretary may make a grant to a State or county veterans agency to be used to carry out, coordinate, improve, or otherwise enhance—

(A) outreach activities, including activities carried out pursuant to a contract entered into under subsection (c); and

(B) activities to assist in the development and submittal of claims for veterans and veterans-related benefits, including activities carried out pursuant to a contract entered into under subsection (c).

(2) A State veterans agency that receives a grant under this subsection may award all or a portion of the grant to county veterans agencies within the State to provide outreach services for veterans, on the basis of the number of veterans residing in the jurisdiction of each county.

(3) To be eligible for a grant under this subsection, a State or county veterans agency shall submit to the Secretary an application containing such information and assurances as the Secretary may require. The Secretary shall require a State or county veterans agency to include, as part of the agency's application—

(A) a three-year plan for the use of the grant; and

(B) a description of the programs through which the agency will meet the annual outcome measures developed by the Secretary under paragraph (4).

(4)(A) The Secretary shall develop and provide to the recipient of a grant under this subsection written guidance on annual outcome measures, Department policies, and procedures for applying for grants under this section.

(B) The Secretary shall annually review the performance of each State or county veterans agency that receives a grant under this section.

(C) In the case of a State or county veterans agency that is a recipient of a grant under this subsection that does not meet the annual outcome measures developed by the Secretary, the Secretary shall require the agency to submit a remediation plan under which the agency shall describe how and when it plans to meet such outcome measures. The Secretary must approve such plan before the Secretary may make a subsequent grant to that agency under this subsection.

(5) No portion of any grant awarded under this subsection may be used for the purposes of administering the grant funds or to subsidize the salaries of State or county veterans service officers or other employees of a State or county veterans agency that receives a grant under this subsection.

(6) Federal funds provided to a State or county veterans agency under this subsection may not be used to provide more than 50 percent of the total cost of the State or county government activities described in paragraph (1) and shall be used to expand existing outreach programs and services and not to supplant State and local funding that is otherwise available.

(7) In awarding grants under this subsection, the Secretary shall give priority to State and county veterans agencies that serve the largest populations of veterans.

(8)(A) In a case in which a county government does not have a county veterans agency, the county government may be awarded a grant under this subsection to establish such an agency.

(B) In a case in which a county government does not have a county veterans agency and does not seek to establish such an agency through the use of a grant under this subsection, the State veterans agency for the State in which the county is located may use a grant under this section to provide outreach services for that county.

(C) In the case of a State in which no State or county veterans agency seeks to receive a grant under this subsection, the funds that would otherwise be allocated for that State shall be reallocated to those States in which county veterans agencies exist and have sought grants under this subsection.

(9) A grant under this subsection may be used to provide education and training, including on-the-job training, for State, county, and local government employees who provide (or when trained will provide) veterans outreach services in order for those employees to obtain accreditation in accordance with procedures approved by the Secretary and, for employees so accredited, for purposes of continuing education.

(e) DEFINITIONS.—For the purposes of this section:

(1) The term "State veterans agency" means the element of the government of a State that has responsibility for programs and activities of that State government relating to veterans benefits.

(2) The term "county veterans agency" means the element of the government of a county or municipality that has responsibility for programs and activities of that county or municipal government relating to veterans benefits.

§ 563. Outreach activities: funding

(a) SEPARATE ACCOUNT.—Amounts for the outreach activities of the Department under this subchapter shall be budgeted and appropriated through a separate appropriation account.

(b) SEPARATE STATEMENT OF AMOUNT.—In the budget justification materials submitted to Congress in support of the Department budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary shall include a separate statement of the amount requested to be appropriated for that fiscal year for the account specified in subsection (a).

§ 564. Definition of outreach

For purposes of this subchapter, the term "outreach" means the act or process of taking steps in a systematic manner to provide information, services, and benefits counseling to veterans, and the survivors of veterans, who may be eligible to receive benefits under the laws administered by the Secretary to ensure that those individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws for which they may be eligible.

§ 565. Authorization of appropriations

There is authorized to be appropriated to the Secretary for each of fiscal years 2011, 2012, and 2013, \$25,000,000 to carry out this subchapter, including making grants under section 562(d) of this title.

* * * * *

PART II—GENERAL BENEFITS

* * * * *

CHAPTER 23—BURIAL BENEFITS

* * * * *

§ 2301. Flags

(a) * * *

* * * * *

(e) The Secretary shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 2402(6) section 2402(a)(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Secretary considers appropriate.

* * * * *

§ 2306. Headstones, markers, and burial receptacles

(a) The Secretary shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) * * *

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in ζ section 2402(4) *section 2402(a)(4)*, (5), and (6) of this title.

* * * * *

(4) Any individual described in ζ section 2402(5) *section 2402(a)(5)* of this title who is buried in a veterans' cemetery owned by a State.

* * * * *

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

* * * * *

§ 2402. Persons eligible for interment in national cemeteries

ζ Under such regulations *(a) Under such regulations* as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery under the control of the National Cemetery Administration:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States

during that war, and whose last such service terminated honorably.

(5) The spouse, surviving spouse (which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage), minor child (which for purposes of this chapter includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution), and, in the discretion of the Secretary, unmarried adult child of any of the persons listed in paragraphs (1) through (4) and paragraph (7).

(6) Such other persons or classes of persons as may be designated by the Secretary.

(7) Any person who at the time of death was entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(8) Any individual whose service is described in subsection (a) or (b) of section 107 of this title if such individual at the time of death—

(A) was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(B) resided in the United States.

(9)(A) *The parent of a person described in subparagraph (B), if the Secretary determines that there is available space at the gravesite where the person described in subparagraph (B) is interred.*

(B) *A person described in this subparagraph is a person described in paragraph (1) who—*

(i) is a hostile casualty or died from a training-related injury;

(ii) is interred in a national cemetery; and

(iii) at the time of the person's parent's death, did not have a spouse, surviving spouse, or child who is buried or who, upon death, may be eligible for burial in a national cemetery pursuant to paragraph (5).

(b) *For purposes of subsection (a)(9) of this section:*

(1) The term "parent" means a biological father or a biological mother or, in the case of adoption, a father through adoption or a mother through adoption.

(2) The term "hostile casualty" means a person who, as a member of the Armed Forces, dies as the direct result of hostile action with the enemy, while in combat, while going to or returning from a combat mission if the cause of death was directly related to hostile action, or while hospitalized or undergoing treatment at the expense of the United States for injury incurred during combat, and includes a person killed mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force, but does not include a person who dies due to the elements, a self-inflicted wound, combat fatigue, or a friendly force while the person was in an absent-without-leave, deserter, or dropped-from-rolls status or was voluntarily absent from a place of duty.

(3) The term "training-related injury" means an injury incurred by a member of the Armed Forces while performing authorized training activities in preparation for a combat mission.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

* * * * *

§ 3692. Advisory committee

(a) * * *

* * * * *

(c) The committee shall remain in existence until December 31, 2009 *December 31, 2015.*

* * * * *

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

Chap.		Sec.
71.	Board of Veterans' Appeals	7101
	* * * * *	
80.	Visual Impairment and Orientation and Mobility Professionals Education Assistance Program	8001.
	* * * * *	

CHAPTER 80—VISUAL IMPAIRMENT AND ORIENTATION AND MOBILITY PROFESSIONALS EDUCATION ASSISTANCE PROGRAM

- Sec.
8001. Establishment of scholarship program; purpose.
8002. Application and acceptance.
8003. Amount of assistance; duration.
8004. Agreement.
8005. Repayment for failure to satisfy requirements of agreement.

§ 8001. Establishment of scholarship program; purpose

(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish and carry out a scholarship program to provide financial assistance in accordance with this chapter to an individual—

(1) who is accepted for enrollment or currently enrolled in a program of study leading to a degree or certificate in visual impairment or orientation and mobility, or a dual degree or cer-

tification in both such areas, at an accredited (as determined by the Secretary) educational institution that is in a State; and

(2) who enters into an agreement with the Secretary as described in section 8004 of this chapter.

(b) *PURPOSE.*—The purpose of the scholarship program established under this chapter is to increase the supply of qualified blind rehabilitation specialists for the Department and the Nation.

(c) *OUTREACH.*—The Secretary shall publicize the scholarship program established under this chapter to educational institutions throughout the United States, with an emphasis on disseminating information to such institutions with high numbers of Hispanic students and to Historically Black Colleges and Universities.

§ 8002. Application and acceptance

(a) *APPLICATION.*—(1) To apply and participate in the scholarship program under this chapter, an individual shall submit to the Secretary an application for such participation together with an agreement described in section 8004 of this chapter under which the participant agrees to serve a period of obligated service in the Department as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(2) In distributing application forms and agreement forms to individuals desiring to participate in the scholarship program, the Secretary shall include with such forms the following:

(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Secretary.

(B) A full description of the terms and conditions that apply to participation in the scholarship program and service in the Department.

(b) *APPROVAL.*—(1) Upon the Secretary's approval of an individual's participation in the scholarship program, the Secretary shall, in writing, promptly notify the individual of that acceptance.

(2) An individual becomes a participant in the scholarship program upon such approval by the Secretary.

§ 8003. Amount of assistance; duration

(a) *AMOUNT OF ASSISTANCE.*—The amount of the financial assistance provided for an individual under this chapter shall be the amount determined by the Secretary as being necessary to pay the tuition and fees of the individual. In the case of an individual enrolled in a program of study leading to a dual degree or certification in both the areas of study described in section 8001(a)(1) of this chapter, the tuition and fees shall not exceed the amounts necessary for the minimum number of credit hours to achieve such dual certification or degree.

(b) *RELATIONSHIP TO OTHER ASSISTANCE.*—Financial assistance may be provided to an individual under this chapter to supplement other educational assistance to the extent that the total amount of educational assistance received by the individual during an academic year does not exceed the total tuition and fees for such academic year.

(c) *MAXIMUM AMOUNT OF ASSISTANCE.*—(1) In no case may the total amount of assistance provided under this chapter for an aca-

demical year to an individual who is a full-time student exceed \$15,000.

(2) In the case of an individual who is a part-time student, the total amount of assistance provided under this chapter shall bear the same ratio to the amount that would be paid under paragraph (1) if the participant were a full-time student in the program of study being pursued by the individual as the coursework carried by the individual to full-time coursework in that program of study.

(3) In no case may the total amount of assistance provided to an individual under this chapter exceed \$45,000.

(d) **MAXIMUM DURATION OF ASSISTANCE.**—The Secretary may provide financial assistance to an individual under this chapter for not more than six years.

§ 8004. Agreement

An agreement between the Secretary and a participant in the scholarship program under this chapter shall be in writing, shall be signed by the participant, and shall include—

(1) the Secretary's agreement to provide the participant with financial assistance as authorized under this chapter;

(2) the participant's agreement—

(A) to accept such financial assistance;

(B) to maintain enrollment and attendance in the program of study described in section 8001(a)(1) of this chapter;

(C) while enrolled in such program, to maintain an acceptable level of academic standing (as determined by the educational institution offering such program under regulations prescribed by the Secretary); and

(D) after completion of the program, to serve as a full-time employee in the Department for a period of three years, to be served within the first six years after the participant has completed such program and received a degree or certificate described in section 8001(a)(1) of this chapter; and

(3) any other terms and conditions that the Secretary determines appropriate for carrying out this chapter.

§ 8005. Repayment for failure to satisfy requirements of agreement

(a) **IN GENERAL.**—An individual who receives educational assistance under this chapter shall repay to the Secretary an amount equal to the unearned portion of such assistance if the individual fails to satisfy the requirements of the agreement entered into under section 8004 of this chapter, except in circumstances authorized by the Secretary.

(b) **AMOUNT OF REPAYMENT.**—The Secretary shall establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted.

(c) **WAIVER OR SUSPENSION OF COMPLIANCE.**—The Secretary shall prescribe regulations providing for the waiver or suspension of any obligation of an individual for service or payment under this chapter (or an agreement under this chapter) whenever noncompliance by the individual is due to circumstances beyond the control of the

individual or whenever the Secretary determines that the waiver or suspension of compliance is in the best interest of the United States.

(d) OBLIGATION AS DEBT TO UNITED STATES.—An obligation to repay the Secretary under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after the date of the termination of the agreement or contract on which the debt is based.

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

* * * * *

SUBCHAPTER II—PROCUREMENT AND SUPPLY

* * * * *

§8127. Small business concerns owned and controlled by veterans: contracting goals and preferences

(a) * * *

* * * * *

(c) **SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.**—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department *may shall* award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

(1) * * *

* * * * *

(f) **DATABASE OF VETERAN-OWNED BUSINESSES.**—(1) * * *

(2)(A) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran. *Application for inclusion in the database shall constitute permission under section 552a of title 5 (commonly referred to as the Privacy Act) for the Secretary to access such personal information maintained by the Secretary as may be necessary to verify the information contained in the application.*

(B) *If the Secretary receives an application for inclusion in the database from an individual whose status as a veteran cannot be verified because the Secretary does not maintain information with respect to the veteran status of the individual, the Secretary may not include the small business concern owned or controlled by the individual in the database maintained by the Secretary until the Sec-*

retary receives such information as may be necessary to verify that the individual is a veteran.

* * * * *

¿(4) In maintaining the database, the Secretary shall carry out at least the following two verification functions:

¿(A) Verification that each small business concern listed in the database is owned and controlled by veterans.

¿(B) In the case of a veteran who indicates a service-connected disability, verification of the service-disabled status of such veteran.

(4) No small business concern may be listed in the database until the Secretary has verified that—

(A) the small business concern is owned and controlled by veterans; and

(B) in the case of a small business concern for which the person who owns or controls the concern indicates that the person is a veteran with a service-connected disability, that the person is a veteran with a service-connected disability.

* * * * *

SERVICEMEMBERS CIVIL RELIEF ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

* * * * *

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

* * * * *

¿TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

TITLE III. RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, SERVICE CONTRACTS

* * * * *

¿Sec. 305A. Termination or suspension of contracts for cellular telephone service.
Sec. 305A. Termination of service contracts.

* * * * *

TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE

Sec. 801. Enforcement by the Attorney General.

Sec. 802. Private right of action.

Sec. 803. Preservation of other remedies.

* * * * *

TITLE II—GENERAL RELIEF

* * * * *

SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

(a) * * *

* * * * *

⚭(f) PRESERVATION OF OTHER REMEDIES.—The penalties provided under subsection (e) are in addition to and do not preclude any other remedy available under law to a person claiming relief under this section, including any award for consequential or punitive damages.

TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES, *SERVICE CONTRACTS*

SEC. 301. EVICTIONS AND DISTRESS.

(a) * * *

* * * * *

⚭(c) PENALTIES.—

⚭(1) MISDEMEANOR.—Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

⚭(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

(c) MISDEMEANOR.—*Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.*

* * * * *

SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE.

(a) * * *

⚭(b) PENALTIES.—

⚭(1) MISDEMEANOR.—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

⚭(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(b) MISDEMEANOR.—*A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.*

* * * * *

SEC. 303. MORTGAGES AND TRUST DEEDS.

(a) * * *

* * * * *

∫(d) PENALTIES.—

∫(1) MISDEMEANOR.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

∫(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

(d) MISDEMEANOR.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

* * * * *

SEC. 305. TERMINATION OF RESIDENTIAL OR MOTOR VEHICLE LEASES.

(a) * * *

* * * * *

∫(e) ARREARAGES AND OTHER OBLIGATIONS AND LIABILITIES.—Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(e) ARREARAGES AND OTHER OBLIGATIONS AND LIABILITIES.—

(1) LEASES OF PREMISES.—Rent amounts for a lease described in subsection (b)(1) that are unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. The lessor may not impose an early termination charge, but any taxes, summonses, or other obligations and liabilities of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(2) LEASES OF MOTOR VEHICLES.—Lease amounts for a lease described in subsection (b)(2) that are unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. The lessor may not impose an early termination charge, but any taxes, summonses, title and registration fees, or other obligations and liabilities of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear or use and mileage, that

are due and unpaid at the time of termination of the lease shall be paid by the lessee.

* * * * *

⌘(h) PENALTIES.—

⌘(1) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember’s dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

⌘(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(h) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember’s dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

* * * * *

⌘SEC. 305A. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE.

⌘(a) IN GENERAL.—A servicemember who receives orders to deploy outside of the continental United States for not less than 90 days or for a permanent change of duty station within the United States may request the termination or suspension of any contract for cellular telephone service entered into by the servicemember before the date of the commencement of such deployment or permanent change if the servicemember’s ability to satisfy the contract or to utilize the service will be materially affected by such deployment or permanent change. The request shall include a copy of the servicemember’s military orders.

⌘(b) RELIEF.—Upon receiving the request of a servicemember under subsection (a), the cellular telephone service contractor concerned shall—

⌘(1) grant the requested relief without imposition of an early termination fee for termination of the contract or a reactivation fee for suspension of the contract; or

⌘(2) in the case that such servicemember is deployed outside the continental United States as described in subsection (a), permit the servicemember to suspend the contract at no charge until the end of the deployment without requiring, whether as

a condition of suspension or otherwise, that the contract be extended.

(c) CELLULAR TELEPHONE SERVICE DEFINED.—In this section, the term “cellular telephone service” has the meaning given the term “commercial mobile service” in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

SEC. 305A. TERMINATION OF SERVICE CONTRACTS.

(a) TERMINATION BY SERVICEMEMBER.—A servicemember may terminate a contract described in subsection (c) at any time after the date the servicemember receives military orders—

(1) to deploy with a military unit, or as an individual, in support of a contingency operation for a period of not less than 90 days; or

(2) for a change of permanent station to a location that does not support the contract.

(b) SPECIAL RULE FOR CELLULAR OR TELEPHONE EXCHANGE SERVICE.—In any case in which a contract being terminated under subsection (a) or (d) is for cellular telephone service or telephone exchange service, the servicemember may keep, to the extent practicable and in accordance with applicable law, the telephone number the servicemember has under the contract for a period not to exceed 90 days after the period of deployment or change of permanent station has concluded.

(c) COVERED CONTRACTS.—This section applies to a contract for cellular telephone service, telephone exchange service, multichannel video programming service, Internet access service, or residential utility service involving the provision of water, electricity, home heating oil, or natural gas.

(d) FAMILY PLANS.—In the case of a contract for cellular telephone service entered into by any individual in which a servicemember is a designated beneficiary of such contract, the individual may terminate such contract—

(1) with respect to the servicemember if the servicemember is eligible to terminate contracts pursuant to subsection (a); and

(2) with respect to all of the designated beneficiaries of such contract if all such beneficiaries accompany the servicemember in a change of permanent station to a location that does not support the contract.

(e) MANNER OF TERMINATION.—Termination of a contract under subsection (a) or (d) shall be made by delivery of a written notice of such termination and a copy of the servicemember’s military orders to the service provider, delivered—

(1) by hand delivery;

(2) by private business carrier;

(3) by facsimile; or

(4) by United States mail, addressed as designated by the service provider, return receipt requested, with sufficient postage.

(f) DATE OF CONTRACT TERMINATION.—Termination of a contract under subsection (a) or (d) is effective as of the date on which the notice under subsection (e) is delivered.

(g) OTHER OBLIGATIONS AND LIABILITIES.—The service provider under the contract may not impose an early termination charge, but any tax or any other obligation or liability of the servicemember that, in accordance with the terms of the contract, is due and un-

paid or unperformed at the time of termination of the contract shall be paid or performed by the servicemember. If the servicemember re-subscribes to the service provided under a covered contract in the 90-day period after the period of deployment or change of permanent station has concluded, the service provider may not impose a charge for reinstating service, other than a charge to cover any cost of installing or acquiring new equipment that existing customers received, and for which such customers paid a similar charge, during such period.

(h) RETURN OF ADVANCE PAYMENTS.—Not later than 60 days after the effective date of the termination of the contract, the service provider shall refund to the servicemember any fee or other amount to the extent paid for a period extending after such date, except for the remainder of the monthly or similar billing period in which the termination occurs if it is not reasonably possible to determine a pro-rata amount for such remainder.

(i) DEFINITIONS.—In this section:

(1) The term “cellular telephone service” means commercial mobile service, as that term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(2) The term “contingency operation” has the meaning given that term by section 101(a)(13) of title 10, United States Code.

(3) The term “Internet access service” has the meaning given that term under section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(4) The term “multichannel video programming service” means video programming service provided by a multichannel video programming distributor, as such term is defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)).

(5) The term “telephone exchange service” has the meaning given that term under section 3 of the Communications Act of 1934 (47 U.S.C. 153).

SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.

(a) * * *

* * * * *

∩(e) PENALTIES.—

∩(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

∩(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

(e) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

SEC. 307. ENFORCEMENT OF STORAGE LIENS.

(a) * * *

* * * * *

ε(c) PENALTIES.—

ε(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

ε(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

(c) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

* * * * *

TITLE VIII—CIVIL LIABILITY

SEC. 801. ENFORCEMENT BY THE ATTORNEY GENERAL.

(a) CIVIL ACTION.—The Attorney General may commence a civil action in any appropriate United States district court against any person who—

- (1) engages in a pattern or practice of violating this Act; or
- (2) engages in a violation of this Act that raises an issue of significant public importance.

(b) RELIEF.—In a civil action commenced under subsection (a), the court may—

- (1) grant any appropriate equitable or declaratory relief with respect to the violation;
- (2) award all other appropriate relief, including monetary damages, to any person aggrieved by the violation; and
- (3) may, to vindicate the public interest, assess a civil penalty—
 - (A) in an amount not exceeding \$55,000 for a first violation; and
 - (B) in an amount not exceeding \$110,000 for any subsequent violation.

(c) INTERVENTION.—Upon timely application, a person aggrieved by a violation with respect to which the civil action is commenced may intervene in such action, and may obtain such appropriate relief as the person could obtain in a civil action under section 802 with respect to that violation, along with costs and a reasonable attorney fee.

SEC. 802. PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Any person aggrieved by a violation of this Act may in a civil action—

- (1) obtain any appropriate equitable or declaratory relief with respect to the violation; and
- (2) recover all other appropriate relief, including monetary damages.

(b) COSTS AND ATTORNEY FEES.—The court may award to a servicemember who prevails in an action brought under subsection (a) the costs of the action, including a reasonable attorney fee.

SEC. 803. PRESERVATION OF REMEDIES.

Nothing in section 801 or 802 shall be construed to preclude or limit any remedy otherwise available under other law, including consequential and punitive damages.