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**MAY 29 2009**

GENERAL COUNSEL

The Honorable Joseph Biden  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

The Department of Defense requests that the Congress enact the enclosed legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2010.

The purpose of each proposal is stated in the accompanying section-by-section analysis.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presenting of these legislative proposals for your consideration and the consideration of the Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeh Charles Johnson", written over a circular stamp or seal that is mostly obscured by the signature's loops.

Jeh Charles Johnson

Enclosure:  
As stated





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**MAY 29 2009**

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Madam Speaker:

The Department of Defense requests that the Congress enact the enclosed legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2010.

The purpose of each proposal is stated in the accompanying section-by-section analysis.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presenting of these legislative proposals for your consideration and the consideration of the Congress.

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**SEC. \_\_. TRAVEL AND TRANSPORTATION ALLOWANCES FOR DESIGNATED  
INDIVIDUALS OF WOUNDED, ILL, OR INJURED MEMBERS FOR  
DURATION OF INPATIENT TREATMENT.**

1 (a) **AUTHORITY TO PROVIDE TRAVEL TO DESIGNATED INDIVIDUALS.**—Subsection (a) of  
2 section 411h of title 37, United States Code, is amended—

3 (1) in paragraph (1)—

4 (A) by striking “family members of a member described in paragraph (2)”  
5 and inserting “individuals who, with respect to a member described in paragraph  
6 (2), are designated individuals for that member”;

7 (B) by striking “that the presence of the family member” and inserting “,  
8 with respect to any such individual, that the presence of such individual”; and

9 (C) by striking “of family members” and inserting “of designated  
10 individuals”; and

11 (2) by adding at the end the following new paragraph:

12 “(4) In the case of a designated individual who is also a member of the uniformed  
13 services, that member may be provided travel and transportation under this section in the same  
14 manner as a designated individual who is not a member.”.

15 (b) **DEFINITION OF DESIGNATED INDIVIDUAL.**—

16 (1) **IN GENERAL.**—Paragraph (1) of subsection (b) of such section is amended by  
17 striking “the term” and all that follows and inserting “the term ‘designated individual’,  
18 with respect to a member, means—

19 “(A) an individual designated by the member for the purposes of this section; or

1           “(B) in the case of a member who has not made a designation under subparagraph  
2 (A) and, as determined by the attending physician or surgeon, is not able to make such a  
3 designation, an individual who, as designated by the attending physician or surgeon and  
4 the commander or head of the military medical facility exercising control over the  
5 member, is someone with a personal relationship to the member whose presence would  
6 aid and support the health and welfare of the member during the duration of the  
7 member’s inpatient treatment.”.

8           (2) DESIGNATIONS NOT PERMANENT.—Paragraph (2) of such subsection is  
9 amended to read as follows:

10          “(2) The designation of an individual as a designated individual for purposes of this  
11 section may be changed at any time.”.

12          (c) COVERAGE OF MEMBERS HOSPITALIZED OUTSIDE THE UNITED STATES WHO WERE  
13 WOUNDED OR INJURED IN A COMBAT OPERATION OR COMBAT ZONE.—

14           (1) COVERAGE FOR HOSPITALIZATION OUTSIDE THE UNITED STATES.—

15          Subparagraph (B) of section (a)(2) of such section is amended—

16           (A) in clause (i), by striking “in or outside the United States”; and

17           (B) in clause (ii), by striking “in the United States”.

18           (2) CLARIFICATION OF MEMBERS COVERED.—Such subparagraph is further  
19 amended—

20           (A) in clause (i), by inserting “seriously wounded,” after “(i) is”; and

21           (B) in clause (ii)—

22           (i) by striking “an injury” and inserting “a wound or an injury”;

23           and

1 (ii) by striking “that injury” and inserting “that wound or injury”.

2 (d) FREQUENCY OF AUTHORIZED TRAVEL.—Subsection (a)(3) of such section is amended  
3 to read as follows:

4 “(3) Not more than a total of three roundtrips may be provided under paragraph (1) in any  
5 60-day period at Government expense to the individuals who, with respect to a member, are the  
6 designated individuals of that member in effect during that period. However, if the Secretary  
7 concerned has granted a waiver under the second sentence of subsection (a)(1) with respect to a  
8 member, then for any 60-day period in which the waiver is in effect the limitation in the  
9 preceding sentence shall be adjusted accordingly. In addition, during any period during which  
10 there is in effect a non-medical attendant designation for a member, not more than a total of two  
11 roundtrips may be provided under paragraph (1) in any 60-day period at Government expense  
12 until there no longer is a designation of a non-medical attendant or that designation transfers to  
13 another individual, in which case during the transfer period three roundtrip tickets may be  
14 provided.”.

15 (e) STYLISTIC AND CONFORMING AMENDMENTS.—Such section is further amended—

16 (1) in subsection (a), by striking “(a)(1)” and inserting “(a) TRAVEL AND  
17 TRANSPORTATION AUTHORIZED.—(1)”;

18 (2) in subsection (b), by striking “(b)(1)” and inserting “(b) DEFINITIONS.—(1)”;

19 (3) in subsection (c)—

20 (A) by striking “(c)(1)” and inserting “(c) ROUND TRIP TRANSPORTATION  
21 AND PER DIEM ALLOWANCE.—(1)”;

22 (B) in paragraph (1), by striking “family member” and inserting  
23 “designated individual”; and

1 (4) in subsection (d), by striking “(d)(1)” and inserting “(d) METHOD OF  
2 TRANSPORTATION AUTHORIZED.—(1)”.

3 (f) CLERICAL AMENDMENTS.—

4 (1) SECTION HEADING.—The heading of such section is amended to read as  
5 follows:

6 **“§ 411h. Travel and transportation allowances: transportation of designated individuals**  
7 **incident to hospitalization of members for treatment of wounds, illness, or**  
8 **injury”.**

9 (2) TABLE OF SECTIONS.—The item relating to such section in the table of sections  
10 at the beginning of chapter 7 of such title is amended to read as follows:

“411h. Travel and transportation allowances: transportation of designated individuals incident to hospitalization of  
members for treatment of wounds, illness, or injury.”.

11 (g) CONFORMING AMENDMENTS TO WOUNDED WARRIOR ACT.—Section 1602(4) of the  
12 Wounded Warrior Act (10 U.S.C. 1071 note) is amended—

13 (1) by inserting “(A)” before “The term”;

14 (2) by striking “as defined in section 411h(b)(1) of title 37, United States Code”  
15 and inserting “as defined in subparagraph (B)”;

16 (3) by adding at the end the following:

17 “(B) For purposes of subparagraph (A), the term ‘family member’, with respect to  
18 a recovering service member, means the following:

19 “(i) The member's spouse.

20 “(ii) Children of the member (including stepchildren, adopted children,  
21 and illegitimate children).

1                   “(iii) Parents of the member or persons in loco parentis to the member,  
2 including fathers and mothers through adoption and persons who stood in loco  
3 parentis to the member for a period not less than one year immediately before the  
4 member entered the uniformed service, except that only one father and one  
5 mother or their counterparts in loco parentis may be recognized in any one case.

6                   “(iv) Siblings of the member.

7                   Such term includes a person related to the member as described in clauses (i), (ii), (iii), or  
8 (iv) who is also a member of the uniformed services.”.

9                   (h) APPLICABILITY OF AMENDMENTS.—No reimbursement may be provided under section  
10 411h of title 37, United States Code, by reason of the amendments made by this section for travel  
11 and transportation costs incurred before the date of the enactment of this Act.

### **Section-by-Section Analysis**

This section would authorize the payment of round trip travel once during a 60 day period through the duration of the service member's inpatient hospitalization for up to three individuals designated by the service member per 60 days when the service member is wounded, ill, or injured and hospitalized for treatment of that wound, illness, or injury. Should the service member have a designated individual serving as a non-medical attendant then authorization would be limited to round trip travel once during a 60 day period for two individuals designated by the service member per a 60 day period. The Department of Defense would still allow designated individuals use of donated frequent flier miles or travel at a rate of one roundtrip per 60 days in addition to the roundtrip incurred at government expense.

Currently, the Department of Defense may issue Invitational Travel Authorizations, including transportation for one round trip and Per Diem, for up to three family members to visit a service member who is seriously ill, seriously injured, or in a state of imminent death and is hospitalized in a medical facility in or outside the United States, or a service member who does not fall into those categories but has an injury incurred in a combat zone and who is hospitalized in a medical facility in the United States for treatment of that injury. However, inpatient treatment periods for service members can last up to 12 months. Given the extended inpatient treatment periods that service members may face, authorized family members who travel back and forth to their homes on a recurring basis during this extended treatment period face a significant potential financial hardship. The Department of Defense has identified and addressed this potential financial hardship by allowing authorized family members to travel on donated

frequent flyer miles for any travel over and above the one authorized round trip. Additionally, wounded, ill, or injured personnel currently in treatment include single service members who lack an immediate and/or traditional family support system, while other service members may face unique family situations that preclude visitations by family members. With the proposed authority in this section, the Department would no longer have to rely solely upon the temporary solution of donated frequent flyer miles. Increasing the number of authorized round trips would promote a peace of mind during this very stressful time by reducing the financial hardship on the injured service member's designated support individuals, who are often required to travel long distances to aid and support the wounded service member's inpatient treatment/recovery. Finally, this authority would allow the service member to designate a variety of individuals that they personally believe are most capable in aiding and supporting them throughout the inpatient treatment/recovery process, and allow for potential changes in personal circumstances. If a service member chooses, they may change any or all of their designated individuals, i.e., they need not retain the same three (two if that service member has a designated non-medical attendant) individuals they initially selected to aid and support them throughout the duration of their inpatient treatment/recovery.

For example, an eighteen-year-old Marine is wounded in Iraq and faces an extended recovery at Walter Reed Army Medical Center. His parents live in Sacramento, California, and have two minor children at home. He has a girlfriend who resides in Topeka, Kansas. The parents travel to Walter Reed Army Medical Center and remain with the Marine during the first several weeks of his recovery. After the first 30 days, the Marine has made significant progress in his recovery and only the father travels back to Sacramento, California for two months to take care of the other children and to return to work. When he is ready to return to Walter Reed, this section would provide the authority for the Secretary to pay the father's travel expenses for the return trip. In addition, this section would authorize the Secretary to pay the mother's travel expenses for her trip back to Sacramento, as well as her return trip to Walter Reed. Moreover, when the mother returns to Sacramento to recuperate from the emotional toll that has accumulated as a result of being at her wounded son's bedside for an extended period, this section would authorize the Secretary of the military department concerned to pay her trip back home to Sacramento, as well as pay the round trip from Topeka, Kansas for the service member's girlfriend, who replaces the mother at the service member's bedside at Walter Reed. Finally, this section would provide authority for the girlfriend's trip back to Topeka. These changes would allow for designated individuals' travel and Per Diem for the entire duration of the service member's recovery. They also would promote the well-being of our Wounded Warriors by reducing the financial hardship on families and individuals that aid and support the service member's treatment/recovery that frequently must travel long distances to care for the service members during this stressful time. Finally, this section would enhance the treatment/recovery process by capitalizing on the benefits that the presence of family members -- or non-family members with a personal relationship to the service member -- provide during the healing process, while helping to minimize the significant disruption to the daily lives of those who contribute considerably to the service member's ultimate recovery.

## **BUDGET IMPLICATIONS**



The military departments will make funds available in their respective Operation and Maintenance accounts to fund this proposal should it be approved. The Department of Defense (DoD) estimates that it would cost \$103 million in fiscal year (FY) 2010 and \$358.4 million from FY 2010-2015.

NUMBERS OF PERSONNEL AFFECTED									
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2010-2015	Appropriation To	Personnel Type
Air Force	72	65	59	53	48	43	340	Operation and Maintenance	AC & RC
Navy	84	76	68	61	55	50	394	Operation and Maintenance	AC & RC
Marine Corps	384	346	311	280	252	227	1,800	Operation and Maintenance	AC & RC
Army	2,160	1,944	1,750	1,575	1,418	1,276	10,123	Operation and Maintenance	AC & RC
Total	2,700	2,431	2,188	1,969	1,773	1,596	12,657		

RESOURCE REQUIREMENTS (\$MILLIONS)										
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2010-2015	Appropriation To	Budget Activity	Dash-1 Line Item
Air Force	+1.6	+1.3	+0.7	+0.6	+0.7	+0.7	+5.6	Operation and Maintenance	04	3400F-042Z
Navy	+1.6	+1.3	+0.7	+0.6	+0.7	+0.7	+5.6	Operation and Maintenance	01	1804N-BSS1
Marine Corps	+7.3	+6.1	+2.9	+2.9	+3.0	+3.0	+25.2	Operation and Maintenance	01	1106N-BSS1
Army	+41.3	+35.0	+16.7	+16.5	+16.8	+17.2	+143.5	Operation and Maintenance	01	2020A-131
Total	+51.8	+43.7	+21.0	+20.6	+21.2	+21.6	+179.9			

[NOTE: Numbers May Not Add Due To Rounding]

RESOURCE REQUIREMENTS (\$MILLIONS)										
(Offset to fund legislative proposal and incorporated in President's Budget submission)										
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2010-2015	Appropriation To	Budget Activity	Dash-1 Line Item
Air Force	+1.6	+1.3	+0.7	+0.6	+0.7	+0.7	+5.6	Operation and Maintenance	04	3400-042Z
Navy	+1.6	+1.3	+0.7	+0.6	+0.7	+0.7	+5.6	Operation and Maintenance	01	1804N-BSS1
Marine Corps	+7.3	+6.1	+2.9	+2.9	+3.0	+3.0	+25.2	Operation and Maintenance	01	1106N-BSS1
Army	+41.3	+35.0	+16.7	+16.5	+16.8	+17.2	+143.5	Operation and Maintenance	01	2020A-131
Total	+51.8	+43.7	+21.0	+20.6	+21.2	+21.6	+179.9			

[NOTE: Numbers May Not Add Due To Rounding]

Cost Methodology: The Cost Methodology is based upon providing the proposed benefits to the entire Wounded, Ill, and Injured population, regardless of origin of wound, illness, or injury.

The following is the cost share by Service; (1) Army, 80 percent; (2) Marine Corps, 14 percent; (3) Navy, 3 percent; and (4) Air Force, 3 percent.

The Department based its cost estimates using the annual average of the calendar year (CY) 2008 Wounded in Action (WIA) population. The cost estimates assume a two-month average WIA inpatient stay across all Services, with a total inpatient “flow” of 154 wounded service members (WSMs) per month. The maximum benefit would allow three designated individuals not more than a total of three roundtrips per 60 day period (for the entire group), or two if a service member has a designated non-medical attendant plus Per Diem, for the duration of the Service Member’s recovery.

- Operation Iraqi Freedom (OIF)/Operation Enduring Freedom (OEF) Assumptions: For future years requirements (beyond fiscal year 2010), the Department assumes the WIA flow will decrease with the commencement of an OIF drawdown, with the total trend being smaller, even with an increased presence in OEF. The cost projection assumes a linear 10 percent reduction in the WSM flow rate for the period of March 2011 through December 2011.
- Round Trip Airfare Assumptions: An airfare assumption of \$835.05 per round trip was based upon a weighted cost matrix, using the WIA population from the highest ten states against the population of largest Army Treatment Facility locations. Army was assumed due to data availability and predominance of WSM population. Airfare for City pairs ([www.gsa.gov](http://www.gsa.gov)) was applied to the matrix. An annual inflation rate of 2.2 percent is applied to this rate for FY 2010 and out.
- Per Diem Assumptions: Per Diem is calculated in accordance with the Per Diem website (<http://perdiem.hqda.pentagon.mil>), and is based on the weighted locality rate for the 11 highest populations for Army treatment facility locations. An annual inflation rate of 2.2 percent is applied to this rate for FY 2010 and out. Per Diem (\$175.58 per designated individual per day) is the cost associated with meals, lodging, and incidentals.

Based upon current policies, regulation, procedures, and assumptions herein, it is conservatively estimated that benefits granted through Section 411(h) by the Department via Service Operations & Maintenance (O&M) total approximately \$10 million per fiscal year, from within existing O&M resources. The cost estimate herein includes this level of funding being executed under the current authority, as well as the additional cost for the expanded authority. The table below reflects the additional cost (i.e. the “delta”) of the expanded authority:

**Changes to Existing Law:** This section would make the following changes to existing law:

**SECTION 411h OF TITLE 37, UNITED STATES CODE:**

**§ 411h. Travel and transportation allowances: transportation of ~~family members~~ designated individuals incident to illness or injury hospitalization of members for wounds, illness, or injury**

(a) **TRAVEL AND TRANSPORTATION AUTHORIZED.**—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (c) may be provided for not more than three family members of **individuals who, with respect to** a member described in paragraph (2), **are designated individuals for that member** if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine, **with respect to any such individual**, that the presence of ~~the family member~~ **such individual** may contribute to the member's health and welfare. In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members **designated individuals** provided travel and transportation under this section.

(2) A member referred to in paragraph (1) is a member of the uniformed services who—

(A) is serving on active duty, is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section), or is retired for the illness or injury referred to in subparagraph (B); and

(B) either—

(i) is **seriously wounded**, seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility ~~in or outside the United States~~; or

(ii) is not described in clause (i), but has **a wound or** an injury incurred in an operation or area designated as a combat operation or combat zone, respectively, by the Secretary of Defense and is hospitalized in a medical facility ~~in the United States~~ for treatment of that **wound or** injury.

(3) Not more than ~~one roundtrip~~ **a total of three roundtrips** may be provided ~~to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B)~~ **in any month to the individuals who, with respect to a member, are the designated individuals of that member in effect during that month. However, if the Secretary concerned has granted a waiver under the second sentence of subsection (a)(1) with respect to a member, then for any month in which the waiver is in effect the limitation in the preceding sentence shall be adjusted accordingly. In addition, during any period during which there is in effect a non-medical attendant designation for a member, not more than a total of two roundtrips may be provided under paragraph (1) in any 60-day period at Government expense until there no longer is a designation of a non-medical attendant or that designation transfers to another individual, in which case during the transfer period three roundtrip tickets may be provided.**

**(4) In the case of a designated individual who is also a member of the uniformed services, that member may be provided travel and transportation under this section in the same manner as a designated individual who is not a member.**

(b) **DEFINITIONS.**—(1) In this section, the term “family member” **“designated individual”**, with respect to a member, means—

—(A) the member's spouse;

—(B) children of the member (including stepchildren, adopted children, and illegitimate children);

—(C) parents of the member or persons in loco parentis to the member, as provided in paragraph (2);

—(D) siblings of the member; and  
—(E) a person related to the member as described in subparagraphs (A), (B), (D), or (E) who is also a member of the uniformed services.

**(A) an individual designated by the member for the purposes of this section; or (B) in the case of a member who has not made a designation under subparagraph (A) and, as determined by the attending physician or surgeon, is not able to make such a designation, an individual who, as designated by the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member, is someone with a personal relationship to the member whose presence would aid and support the health and welfare of the member during the duration of the member's inpatient treatment.**

(2) Parents of a member or persons in loco parentis to a member including fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service, except that only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

**(2) The designation of an individual as a designated individual for purposes of this section may be changed at any time.**

(3) In this section, the term "health and welfare", with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.

(c) **ROUND TRIP TRANSPORTATION AND PER DIEM ALLOWANCE.**—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the ~~family member~~ **designated individual** and the location of the medical facility in which the member is hospitalized.

(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.

(d) **METHOD OF TRANSPORTATION AUTHORIZED.**—(1) The transportation authorized by subsection (a) may be provided by any of the following means:

(A) Transportation in-kind.

(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

(C) Reimbursement for the commercial cost of transportation.

(2) An allowance payable under this subsection may be paid in advance.

(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

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## SECTION 1602 OF THE WOUNDED WARRIOR ACT

(10 U.S.C. 1071 note)

### SEC. 1602. GENERAL DEFINITIONS.

In this title:

(1) \*\*\*

\* \* \* \* \*

(4) ELIGIBLE FAMILY MEMBER.—(A) The term “eligible family member”, with respect to a recovering service member, means a family member (as defined in ~~section 411h(b)(1) of title 37, United States Code~~ subparagraph (B)) who is on invitational travel orders or serving as a non-medical attendee while caring for the recovering service member for more than 45 days during a one-year period.

(B) For purposes of subparagraph (A), the term “family member”, with respect to a recovering service member, means the following:

(i) The member's spouse.

(ii) Children of the member (including stepchildren, adopted children, and illegitimate children).

(iii) Parents of the member or persons in loco parentis to the member, including fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service, except that only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

(iv) Siblings of the member.

Such term includes a person related to the member as described in clauses (i), (ii), (iii), or (iv) who is also a member of the uniformed services.

\* \* \* \* \*

**SEC. \_\_. AUTHORIZED TRAVEL AND TRANSPORTATION ALLOWANCES FOR  
NON-MEDICAL ATTENDANTS FOR VERY SERIOUSLY AND  
SERIOUSLY WOUNDED, ILL, OR INJURED MEMBERS.**

1 (a) PAYMENT OF TRAVEL COSTS AUTHORIZED.—

2 (1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by  
3 inserting after section 411j the following new section:

4 **“§ 411k. Travel and transportation allowances: non-medical attendants for members who**  
5 **are determined to be very seriously or seriously wounded, ill, or injured**

6 “(a) ALLOWANCE FOR NON-MEDICAL ATTENDANT.—(1) Under uniform regulations  
7 prescribed by the Secretaries concerned, travel and transportation described in subsection (d)  
8 may be provided for a qualified non-medical attendant for a member of the uniformed services  
9 described in subsection (c) if the attending physician or surgeon and the commander or head of  
10 the military medical facility exercising control over the member determine that the presence of  
11 such an attendant may contribute to the member's health and welfare.

12 “(b) QUALIFIED NON-MEDICAL ATTENDANT.—For purposes of this section, a qualified  
13 non-medical attendant, with respect to a member described in subsection (c), is an individual—

14 “(1) who the member designates for purposes of this section to be a non-medical  
15 attendant for the member; and

16 “(2) who the attending physician or surgeon and the commander or head of the  
17 military medical facility exercising control over the member determine would be an  
18 appropriate non-medical attendant for the member and whose presence may contribute to  
19 the member's health and welfare.

1           “(c) COVERED MEMBERS.—A member of the uniformed services described in this  
2 subsection is a member who—

3                   “(1) has been determined by the attending physician to be in the category known  
4 as “very seriously wounded, ill, or injured” or in the category known as “seriously  
5 wounded, ill, and injured”; and

6                   “(2) either—

7                           “(A) is hospitalized for treatment of that wound, illness, or injury; or

8                           “(B) requires continuing outpatient treatment for that wound, illness, or  
9 injury.

10           “(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by  
11 subsection (a) for an attendant for a member is round-trip transportation between the home of the  
12 attendant and the location at which the member is receiving treatment and may include  
13 transportation, while accompanying the member, to any other location to which the member is  
14 subsequently transferred for further treatment. A designated non-medical attendant may not also  
15 be a designated individual for travel and transportation allowance for wounded, ill, or injured  
16 under subsection (a) of section 411h of this title.

17                   “(2) The transportation authorized by subsection (a) includes any travel necessary to  
18 obtain treatment for the member at the location to which the member is permanently assigned.

19                   “(3) In addition to the transportation authorized by subsection (a), the Secretary  
20 concerned may provide a per diem allowance or reimbursement for the actual and necessary  
21 expenses of the travel, or a combination thereof, but not to exceed the rates established under  
22 section 404(d) of this title.

1           “(4) The transportation authorized by subsection (a) may be provided by any of the  
2 following means:

3                   “(A) Transportation in-kind.

4                   “(B) A monetary allowance in place of transportation in-kind at a rate to be  
5 prescribed by the Secretaries concerned.

6                   “(C) Reimbursement for the commercial cost of transportation.

7           “(5) An allowance payable under this subsection may be paid in advance.

8           “(6) Reimbursement payable under this subsection may not exceed the cost of  
9 Government-procured commercial round-trip air travel.”.

10                   (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such  
11 chapter is amended by inserting after the item related to section 411j the following new  
12 item:

“411k. Travel and transportation allowances: non-medical attendants for members determined to be very seriously  
or seriously wounded, ill, or injured.”.

13           (b) APPLICABILITY.—No reimbursement may be provided under section 411k of title 37,  
14 United States Code, as added by subsection (a)(1), for travel and transportation costs incurred  
15 before the date of the enactment of this Act.

### **Section-by-Section Analysis**

This section would create the authority of the Secretaries of the military departments to authorize non-medical attendants (NMAs) for very seriously or seriously wounded, ill, or injured personnel. It also would authorize the provision of the full range of travel and transportation allowances to these attendants for travel executed in the performance of service as an NMA. An NMA may not be both a designated individual for travel and transportation allowances of wounded, ill, and injured under subsection 411h of title 37, United States Code and receive benefits associated with non-medical attendant status. An individual may only serve in a single capacity in this regard.



Medical providers often cannot provide the care and support that very seriously or seriously wounded, ill, or injured service members need. Instead, support often comes from non-medical attendants, authorized by hospital commanders. A non-medical attendant for a service member assists the member to make appointments, assists the member with functions of daily living, and in general aids the member in recovering as quickly and completely as possible. Current law allows for the designation of a non-medical attendant during the movement of a patient from one location to another. However, very seriously or seriously wounded, ill, or injured personnel may benefit significantly from the presence of an attendant not only during travel, but throughout the duration of the healing and recovery process.

An attendant currently must be a family member at least 21-years-old. However, very seriously or seriously wounded, ill, or injured personnel currently in recovery include single service members who do not have any family members who may serve as attendants. This section would provide clear authority for these very seriously or seriously wounded, ill, or injured personnel to have attendants when the attending physician or surgeon, and the commander or head of the military medical facility determine such an attendant may contribute to the service member's recovery. Many single very seriously or seriously wounded, ill, or injured personnel have close friends, fiancées, or other non-family members who are willing and able to perform the essential duties of a nonmedical attendant. Allowing a non-family member to serve as an attendant would encourage the healing process of single very seriously or seriously wounded, ill, or injured service members who lack an immediate, traditional family support system. In fact, the non-family member attendant may be in a better position to provide support to the service member during the recovery process.

In addition, this section would provide the Secretaries of the military departments with the authority to expand the category of personnel who may qualify as attendants for very seriously or seriously wounded, ill, or injured personnel. This section also provides the authority to compensate these attendants for meals, travel/transportation, and incidental expenses, regardless of the travel status of the member. It is not intended to compensate the NMA for income loss or services rendered. For example, a service member assigned to Fort Gordon, Georgia is wounded in Iraq. He is medically evacuated to Walter Reed Army Medical Center in Washington, D.C. His injuries are severe and the treating physician and the medical facility commander determine that he will benefit from an attendant. The service member wants his 20-year-old fiancée, who lives in Madison, Wisconsin, to serve as the attendant. After three months of recovery at Walter Reed, the wounded member returns to Fort Gordon, Georgia, where he continues to require medical treatment and the support of a full-time attendant. The fiancée accompanies the member to Fort Gordon and, while there, transports the member locally back and forth to the hospital for required medical treatment. This section would authorize the Secretary of the military department concerned to allow the 20-year-old fiancée to serve as the attendant throughout the recovery process. It also would authorize the payment of travel and transportation allowances for her travel from Madison, Wisconsin to Walter Reed Army Medical Center, and from Walter Reed to Fort Gordon, Georgia. Furthermore, this section would allow the fiancée to receive travel and transportation allowances for the local travel she performs while at Fort Gordon.

## **BUDGET IMPLICATIONS**

The Department of Defense estimates that this section would cost \$6.4 million in fiscal year (FY) 2010 and \$24.3 million from FY 2010-2015. The Department will make funds available in the Defense Health Program (DHP) Operation and Maintenance (O&M) account to finance this new authority.

<b>ESTIMATED NUMBER OF MAN MONTHS</b>									
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2010-2015</b>	<b>Appropriation To</b>	<b>Personnel Type</b>
USAF	63	60	33	24	24	24	228	O&M, AF (DHP and/or Line)	AC & RC
USN	63	60	33	24	24	24	228	O&M, USN (DHP and/or Line)	AC & RC
USMC	293	282	154	114	114	114	1,071	O&M, USMC (DHP and/or Line)	AC & RC
USA	1,675	1,613	881	652	651	651	6,123	O&M, USA (DHP and/or Line)	AC & RC
<b>Total</b>	<b>2,094</b>	<b>2,015</b>	<b>1,101</b>	<b>814</b>	<b>813</b>	<b>813</b>	<b>7,650</b>		

[NOTE: "Man Months" = In a given Fiscal Year, the total number of personnel equivalents during that Fiscal Year that require Nonmedical Attendants (NMAs) in any given month.]

<b>RESOURCE REQUIREMENTS (\$MILLIONS)</b>										
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2010-2015</b>	<b>Appropriation To</b>	<b>Budget Activity</b>	<b>Dash-1 Line Item</b>
USAF	\$0.2	\$0.2	\$0.1	\$0.1	\$0.1	\$0.1	\$0.8	O&M, AF (DHP and/or Line)	BA-01 DHP BA-04 Line	308 and/or 3400f-510
USN	\$0.2	\$0.2	\$0.1	\$0.1	\$0.1	\$0.1	\$0.8	O&M, USN (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or BSS1
USMC	\$0.9	\$0.9	\$0.5	\$0.4	\$0.4	\$0.4	\$3.5	O&M, USMC (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or BSS1
USA	\$5.1	\$5.0	\$2.8	\$2.1	\$2.2	\$2.2	\$19.4	O&M, USA (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or 2020A-131
<b>Total</b>	<b>\$6.4</b>	<b>\$6.3</b>	<b>\$3.5</b>	<b>\$2.6</b>	<b>\$2.7</b>	<b>\$2.8</b>	<b>\$24.3</b>			

[NOTE: Numbers May Not Add Due To Rounding]

<b>RESOURCE REQUIREMENTS (\$MILLIONS)</b>										
<b>(Offset to fund legislative proposal and incorporated in President's Budget submission)</b>										
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2010-2015</b>	<b>Appropriation To</b>	<b>Budget Activity</b>	<b>Dash-1 Line Item</b>
USAF	\$0.2	\$0.2	\$0.1	\$0.1	\$0.1	\$0.1	\$0.8	O&M, AF (DHP and/or Line)	BA-01 DHP BA-04 Line	308 and/or 3400f-510
USN	\$0.2	\$0.2	\$0.1	\$0.1	\$0.1	\$0.1	\$0.8	O&M, USN (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or BSS1
USMC	\$0.9	\$0.9	\$0.5	\$0.4	\$0.4	\$0.4	\$3.5	O&M, USMC (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or BSS1
USA	\$5.1	\$5.0	\$2.8	\$2.1	\$2.2	\$2.2	\$19.4	O&M, USA (DHP and/or Line)	BA-01 DHP BA-01 Line	308 and/or 2020A-131
<b>Total</b>	<b>\$6.4</b>	<b>\$6.3</b>	<b>\$3.5</b>	<b>\$2.6</b>	<b>\$2.7</b>	<b>\$2.8</b>	<b>\$24.3</b>			

[NOTE: Numbers May Not Add Due To Rounding]

Cost Methodology: The Cost Methodology is based upon the current execution of the non-medical attendant (NMA) program, with a focus on the entire population of very seriously injured and seriously injured (VSI/SI) service members (SMs), regardless of origin of wound, illness, or injury. Once a SM is identified as VSI/SI, the SM's eligibility for an NMA does not change as long as the member is a DoD SM.

The following is the cost share by Service: (1) Army, 80 percent; (2) Marine Corps, 14 percent; (3) Navy, 3 percent; and (4) Air Force, 3 percent.

The cost estimate assumes the percentage of seriously injured Wounded in Action personnel (WIAs) can be approximated by dividing the number of applicants for Traumatic Servicemembers' Group Life Insurance (TSGLI) (8,895 applicants as of November 1, 2008) by the number of personnel categorized as Wounded in Action Not Returned to Duty.

The Department based its cost estimates using the annual average of the calendar year (CY) 2008 Wounded in Action (WIA) population. The cost estimates assume a two-month average WIA in-patient stay and a 10-month out-patient period across all Services, with a total in-patient "flow" of 154 wounded service members (WSMs) per month. Given a continuous "flow" of 154 WSMs each month and the length of stay premise, approximately 304 out-patient WSMs in any given month is assumed, and the total number of out-patient WSMs per year is therefore assumed to be approximately 3,648. Using TSGLI as a proxy for VSI/SI, it is assumed a total of approximately 2,094 WSMs would require an NMA per year.

The estimate additionally assumes the Defense Manpower Data Center (DMDC) derived WIA Not Returned to Duty (Not RTD) combined with the Office of Secretary of Defense (Personnel & Readiness (OSD/P&R) Physical Evaluation Board (PEB) Disposition Results are an appropriate proxy for those SMs who would experience long term hospitalization and out-patient care

The Department assumes that the NMA population is one NMA per VSI/SI WSM. DOD assumes, on average, an NMA will be required to accompany a WSM for one trip / travel per month. We assume the NMA will, on average, require a total of five days per month for meals, transportation, and lodging associated with WSM medical appointments and/or short term hospitalization and will require re-imburement for meals and incidentals for the remaining 25 days per month (per NMA) to have a cost neutral impact on the WSM.

- Operation Iraqi Freedom (OIF)/Operation Enduring Freedom (OEF) Assumptions: For future years requirements (beyond fiscal year 2010), the Department assumes the WIA flow will decrease with the commencement of an OIF drawdown, with the total trend being smaller, even with an increased presence in OEF. The cost projection assumes a linear 10 percent reduction in the WSM flow rate for the period of March 2011 through December 2011.
- Round Trip Airfare Assumptions: An airfare assumption of \$835.05 per round trip was based upon a weighted cost matrix, using the WIA population from the highest ten states against the population of largest Army Treatment Facility locations. Army was assumed due to data

availability and predominance of WSM population. Airfare for City pairs ([www.gsa.gov](http://www.gsa.gov)) was applied to the matrix. An annual inflation rate of 2.2 percent is applied to this rate for FY 2010 and out.

- **Per Diem Assumptions:** Two rates for Per Diem were used for this cost estimate – Full Per Diem and Partial Per Diem. Per Diem is calculated in accordance with the Per Diem website (<http://perdiem.hqda.pentagon.mil>), and is based on the weighted locality rate for the 11 highest populations for Army treatment facility locations. An annual inflation rate of 2.2 percent is applied to this rate for FY 2010 and out. Full Per Diem (\$175.58 per NMA per day) is the cost associated with meals, lodging, and incidentals. Partial Per Diem (\$54.22 per NMA per day) is derived under the same estimation method but removes lodging (which is assumed as a sunk cost). Costs are dependent upon assumptions for the average number of days a NMA requires full Per Diem or Partial Per Diem.

**Changes to Existing Law:** This proposal would add a new section 411k to title 37, United States Code.

General definitions: The terms “very seriously wounded, ill, or injured” and “seriously wounded, ill, or injured” are medical categories defined by the Department of Defense with parameters established for treatment purposes of individuals deemed unfit for duty based on their grade, rank, and rating. These terms are not established in statute.

**SEC. \_\_\_\_ . REPEAL OF REQUIREMENT FOR A DEPUTY UNDER SECRETARY OF  
DEFENSE FOR TECHNOLOGY SECURITY POLICY WITHIN THE  
OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY.**

1 (a) REPEAL OF REQUIREMENT FOR POSITION.—Section 134b of title 10, United States  
2 Code, is repealed.

3 (b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title  
4 is amended by striking the item relating to section 134b.

**Section-by-Section Analysis**

This amendment would repeal the requirement that there be a Deputy Under Secretary of Defense for Technology Security Policy within the Office of the Under Secretary of Defense for Policy. Doing so would provide the Under Secretary of Defense for Policy with the necessary flexibility to organize the senior leadership in the Office of the Under Secretary of Defense for Policy for maximum efficiency. The functions and responsibilities of the Deputy Under Secretary of Defense for Technology Security Policy would remain under the purview of the Under Secretary of Defense for Policy and be executed by the Director of the Defense Technology Security Administration.

**Changes to Existing Law:** This section would repeal section 134b of title 10, United States Code. The text of that section is as follows:

**§ 134b. Deputy Under Secretary of Defense for Technology Security Policy**

(a) There is in the Office of the Under Secretary of Defense for Policy a Deputy Under Secretary of Defense for Technology Security Policy.

(b) The Deputy Under Secretary serves as the Director of the Defense Technology Security Administration (or any successor organization charged with similar responsibilities).

(c) The principal duties of the Deputy Under Secretary are—

(1) assisting the Under Secretary of Defense for Policy in supervising and directing the activities of the Department of Defense relating to export controls; and

(2) assisting the Under Secretary of Defense for Policy in developing policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

(d) The Deputy Under Secretary shall perform such additional duties and exercise such authority as the Secretary of Defense may prescribe.