

**Congress of the United States**  
**Washington, DC 20515**

August 4, 2010

Mr. Robert Carey  
Director  
Federal Voting Assistance Program  
Department of Defense  
1777 North Kent Street  
Suite #14003  
Arlington, VA 22209

Dear Director Carey,

The men and women of the United States Military make great sacrifices each and every day to protect the cherished freedoms that we enjoy as Americans. One of our most sacred rights is the ability to vote. While the greatness of our society is based upon the right of every eligible citizen to vote, it is absolutely critical that members of the Armed Forces who are serving our nation overseas are able to cast a ballot.

Unfortunately, reports of disenfranchised military personnel have often tarnished election results. The men and women who put their life on the line deserve unequivocal participation in the democracy they protect. That is why Congress passed the Military and Overseas Voter Empowerment Act (MOVE Act) in October, 2009. The MOVE Act requires states to mail unmarked absentee ballots to military and overseas voters at least 45 days prior to an election. The bill does allow for states to apply for a waiver from the 45-day requirement, but only if at least one of three specific situations arise that renders the state "unable" to comply with that timeline.

It is critical that the MOVE Act, which amends the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), is enforced. However, we write to you today with concerns regarding the implementation of this law. According to the minutes of the 2010 winter meeting of the National Association of Secretaries of State (NASS), there appears to be confusion between the Department of Defense (DOD) and Department of Justice (DOJ) about waiver requirements. We are concerned that DOJ does not intend to aggressively pursue the execution of this vital 45-day requirement.

As the Director of the Federal Voting Assistance Program, you are responsible for administering UOCAVA on behalf of the Secretary of Defense, which includes approving the MOVE Act waiver applications. The MOVE Act's text is clear. A secretary of state may be granted a waiver only if the state is "unable" to comply with the law – meaning that the state must literally not be able to comply. We urge you to maximize the transparency of this process. That way it is absolutely evident that the only reason a state seeks a waiver results from one of the three cases specified in the law: (i) The state's primary election date prohibits the state from

complying; (ii) The state has suffered a delay in generating ballots due to a legal contest; or (iii) The state Constitution prohibits the state from complying.

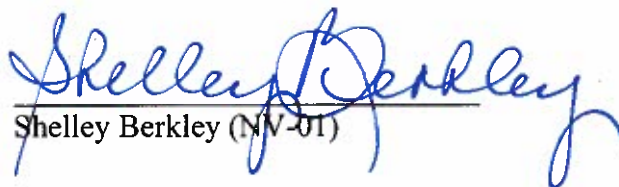
The MOVE Act does not create any discretion for the Executive Branch to decide whether or not to enforce its legal requirements. Should these waivers be posted online, it will be clear that the letter of the law is being pursued by the states. Furthermore, we encourage you to clarify your understanding of the waiver provisions in the statute with the DOJ so that the very clear intent of the law is followed.

Without the brave men and women of the U.S. Military actively protecting American freedom, each of us would not be able to participate in our great democracy. It should be without question that our government makes every effort to protect the ability of our defenders to vote. The MOVE Act makes this possible. We urge you to make the waiver applications transparent, so that it is absolutely clear if the civil rights of members of the Armed Forces are enforced.

Sincerely,

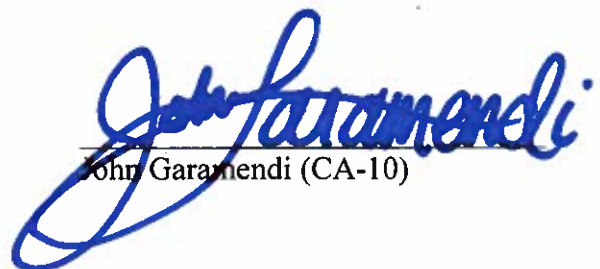
  
Robert Latta (OH-5)

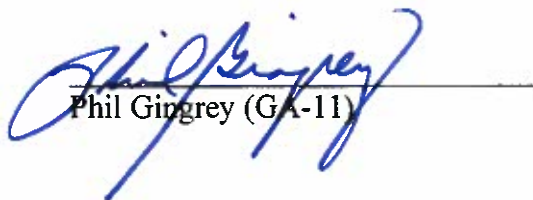
  
Rodney Alexander (LA-05)

  
Shelley Berkley (NV-01)

  
Marsha Blackburn (TN-07)

  
John Boozman (AR-03)

  
John Garamendi (CA-10)

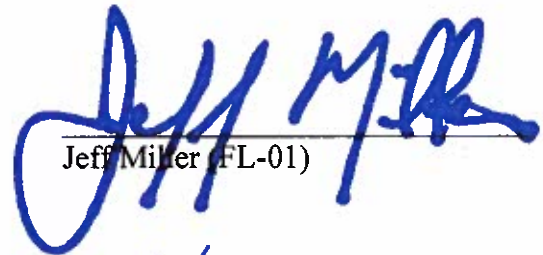
  
Phil Gingrey (GA-11)

  
Stephanie Herseth Sandlin (SD-AL)

  
Duncan Hunter (CA-52)

  
Cathy McMorris Rodgers (WA-05)

  
Candice Miller (MI-10)

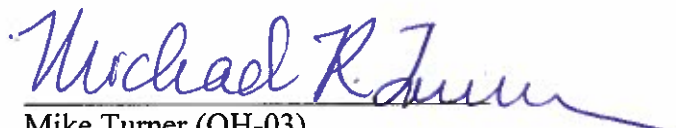
  
Jeff Miller (FL-01)

  
Pete Olson (TX-22)

  
Harold Rogers (KY-05)

  
Mike Rogers (AL-03)

  
Mike Rogers (MI-08)

  
Mike Turner (OH-03)

Cc: The Honorable Robert Gates, Secretary of Defense  
The Honorable Eric Holder, Attorney General