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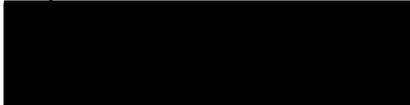
Juneau



STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

May 5, 2010

Mr. Robert Carey, Director
Federal Voting Assistance Program
Department of Defense



Re: MOVE Act Hardship Exemption Request

Dear Director Carey:

On October 28, 2009 President Barack Obama signed into law the National Defense Authorization Act. Subtitle H of that law, known as the Military and Overseas Voter Empowerment Act (MOVE), amended parts of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The State of Alaska is contacting you regarding the amendment 42 USC § 1973ff-1 (a)(8)(A) requiring states to transmit absentee ballots to UOCAVA voters no later than 45 days prior to a federal election, effective November 1, 2010.

In accordance to 42 USC § 1973ff-1 (g), a state may seek a hardship exemption. Pursuant to this section, the State of Alaska hereby submits its application for a waiver from the requirement of (a)(8)(A) set below:

42 USC § 1973ff (g)(1)(A) requires states demonstrate "a recognition that the purpose of such subsection is to allow absentee uniformed services voters and overseas voters enough time to vote in an election for Federal office:"

The State of Alaska recognizes the purpose of 42 USC § 1973ff-1(g)(1)(A) is to provide uniformed services and overseas voters enough time to vote in an election for Federal office. The State of Alaska understands the importance of ensuring that uniformed and overseas voters have sufficient time to vote. Alaska will continue to mail special advance ballots beginning on the 60th day prior to an election through the 28th day prior to the election to overseas military and overseas citizens. The special advance ballot is a blank



ballot that contains the names of the races to be voted on but does not contain candidate names. The appropriate candidate list is sent along with the special advance ballot as well as instructions for the voter to follow for voting the ballot.

Alaska law allows for voted ballots to be received by the division of elections, when mailed domestically, 10 days after Election Day and, when mailed from overseas, 15 days after Election Day.

42 USC § 1973ff-1 (g)(1)(B) requires that states provide "an explanation of the hardship that indicates why the State is unable to transmit absentee uniformed services voters and overseas voters an absentee ballot in accordance with such sections;"

The State of Alaska's primary election date prohibits it from complying with (a)(8)(A). Under state law, primary elections are to be held the fourth Tuesday in August in every even-numbered year. Alaska law allows for absentee ballots to be received up to 15 days after Election Day when mailed from overseas. The certification process of the Primary Election does not begin until after the 15th day following the election and can take up to two weeks. The division anticipates a target certification date for the 2010 Primary Election of September 17, as shown in the timeline below:

Primary Election Day	August 24
Last day to receive absentee ballots mailed from overseas	September 8
Final count of ballots	September 9
Candidate withdrawal deadline for general election	September 15
Target Date for certification of Primary Election	September 17
Deadline to request recount	September 21
General Election Ballot Certified for printing (depending on recount)	September 17 - 22
45 th day prior to General Election	September 18

As you can see from the above timeline, the 45-day deadline to mail ballots to military and overseas voters does not provide Alaska with adequate time to meet the requirement. The 45-day deadline would give Alaska only three days from the candidate withdrawal deadline and only one day from the primary certification date to get the official ballot



printed. In addition, once the election is certified, a defeated candidate may request a recount and the recount must be completed before ballots are printed. It would be impossible to print ballots in this short time frame. In order to meet this requirement, Alaska would need to shorten the above mentioned deadlines, including the 15 day time period we allow for voted ballots to be received and counted after Election Day. We believe it is in the voters' best interest to allow more time after Election Day to receive and count ballots than it is to shorten the time frame in order to meet the 45-day mailing requirement.]

After the 2010 election cycle, the Division of Elections will work with the Alaska Legislature on making changes to our statutes and regulations to further expand electronic voting options to all voters, including military and overseas voters and to allow the special advance ballot to be mailed to all UOCAVA voters, not just those who are overseas.

42 USC § 1973ff-1 (g)(1)(C) requires that states must provide "the number of days prior to the election for Federal office that the State requires absentee ballots be transmitted to absentee uniformed services voters and overseas voters;"

In accordance to Alaska law, the State of Alaska must mail ballots by first class mail as soon as ballots are made available for distribution. Per state law, the official ballot must be received by the division 25 days prior to an election. Alaska typically begins mailing ballots three weeks prior to an election.

The special advance ballot will continue to be mailed to all overseas military and overseas citizens beginning on the 60th day prior to Election Day through the 28th day prior to Election Day.

42 USC § 1973ff-1 (g)(1)(D) requires that states provide "a comprehensive plan to ensure that absentee uniformed services voters and overseas voters are able to receive absentee ballots which they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office, which includes -

- (i) the steps the State will undertake to ensure that the absent uniformed services voters and overseas voters have time to receive, mark and submit their ballots in time to have those ballots counted in the election;
- (ii) why the plan provides absent uniformed services voters and overseas voters sufficient time to vote as a substitute for the requirements under such subsection; and
- (iii) the underlying factual information which explains how the plan provides such sufficient time to vote as a substitute for such requirements."

As mentioned above, Alaska begins mailing the official absentee ballot to voters approximately 21 days prior to each election and continues to accept and count ballots if they are received up to 10 days after the date of the election for those mailed within



the United States or 15 days after the date of the election for those mailed from overseas. In addition, Alaska will continue to mail special advance ballots beginning the 60th day prior to an election through the 28th day prior to the election to overseas military and overseas citizens. The special advance ballot is a blank ballot that contains the names of the races to be voted on but does not contain candidate names. The appropriate candidate list is sent along with the special advance ballot as well as instructions for the voter to follow for voting the ballot.

All voters who receive a special advance ballot are also mailed an official ballot. Voters are instructed to vote and return both ballots. The state will count the official ballot if received. If no official ballot received, the state will count the special advance ballot.

Although Alaska is unable to comply with the new requirement to mail ballots 45 days prior to the election, our process to send and receive the official ballot, along with the special advance ballot provisions, allows military and overseas voters two opportunities to receive, vote and return their ballot in time for it to be counted.

Alaska informs and encourages uniformed services voters and overseas voters to use the Federal Write-In Absentee Ballot (FWAB). Voters who have applied for a ballot, and whose state ballot has not arrived in sufficient time to vote, can use the FWAB to vote in all federal and state races for primary, general and special elections. In addition, voters may simultaneously register to vote, request a by-mail and vote the FWAB so long as the FWAB is received 10 days prior to Election Day for State of Alaska.

The State of Alaska allows for ballots to be sent by electronic transmission. Electronic transmission is defined in state regulations as by facsimile. Ballots may be sent by facsimile and returned by facsimile or by mail. The state recently revised its absentee ballot application to allow for military and overseas voters to designate whether they want their ballot transmitted by mail or electronically. Although Alaska statutes limit the application period for electronic voting to 15 days prior to an election, the 15-day application period to receive a ballot by fax does not apply to military and overseas voters. There is now no time limit on when military and overseas voters can apply for electronic voting.

Because of the special advance ballot, followed by the mailing of an official ballot and the opportunity for voters to receive a ballot electronically, the State of Alaska believes that military and overseas voters have ample opportunity to receive, vote and return their voted ballot.

During the 2008 Presidential election, Alaska's return rate and ballot counting rate for military and overseas voters was quite high. Eighty-six percent of military and overseas voters who applied for a ballot returned their ballot in time for it to be counted.



Mr. Robert Carey
May 5, 2010
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The State of Alaska recently submitted a letter to the U.S. Department of Justice outlining its compliance with the MOVE Act. A copy of that letter is enclosed for your information.

The State of Alaska requests a waiver be granted for the 45-day ballot transmittal time for the November 2, 2010, General Election.

If you have any questions, please contact me.

Sincerely,



Gail Fenumiai
Director

Enclosure

