H.R. 699, MILITARY VOTING RIGHTS ACT OF 1997

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

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H.R. 699, MILITARY VOTING RIGHTS ACT OF 1997

WEDNESDAY, JUNE 4, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The committee met, pursuant to call, at 9:35 a.m., in room 334, Cannon House Office Building, Hon. Bob Stump (chairman of the committee) presiding.

Present: Representatives Stump, Everett, Quinn, Moran, Cooksey, Chenoweth, Evans, Mascara, Peterson, Carson, Reyes, Snyder, and Rodriguez.

OPENING STATEMENT OF CHAIRMAN STUMP

The CHAIRMAN. The meeting will please come to order.

Today's hearing is on H.R. 699, the Military Voting Rights Act of 1997. I am pleased to welcome Congressman Henry Bonilla and Congressman Sam Johnson, the authors of the bill.

H.R. 699 was introduced by Mr. Bonilla after the votes of the military personnel cast by absentee ballots in a local Texas election were challenged. However, I want to stress that the issue addressed by H.R. 699 has nationwide ramifications. If this bill is not enacted, military voters who cast absentee ballots across the country in State, local, and Federal elections may very well be challenged as these Texans were.

States can and do impose reasonable residence requirements for voting, but no State should impose restrictions that effectively deny that right to vote to a resident of that State merely because he or she is in the military. The bill would guarantee that absences incurred as a result of service to our Nation do not result in the loss of residency for voting purposes.

Finally, I would like to add that Congressman Crane of Illinois has submitted a letter for the record in support of H.R. 699 and has described his own proposal. His draft bill would establish a simple voice-activated and automated phone service in the Office of the Chief Administrative Officer of the House to help American voters overseas obtain the necessary forms and registration and ballots.

[The letter appears on p. 26.]

The CHAIRMAN. I would like now to recognize the ranking member, if he was here at least.

Is Mr. Evans out there in the hallway, would you see, please?

All right. Well, we will go on for the first panel today.

Gentlemen, you may proceed in any way. Henry, if you want to start off.

STATEMENT OF HON. HENRY BONILLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BONILLA. I thank you, Mr. Chairman. I appreciate your holding this hearing on this important matter.

My bill is about stopping the greatest case of voter intimidation since before the days we enacted civil rights laws; and, as odd as it may seem, there are people in Del Rio, TX, a couple of attorneys, who have started this fight against our military personnel and their right to vote.

School kids of all ages begin their day reciting the words, "one nation under God, indivisible, with liberty and justice for all." The Pledge of Allegiance is more than a collection of words, it is a definition of America. America is about freedom. America is about justice. America is about liberty. America is a symbol of liberty, and every port of entry, from New York to Honolulu, is a gateway to freedom.

Therefore, it is ironic that one of these gateways, Del Rio, TX, has recently experienced an assault on the most fundamental of liberties, the right to vote. A suit was filed to deny our military personnel the right to vote in State elections.

Del Rio is the home of Laughlin Air Force Base and is one of the most patriotic communities in the Nation. When the Base Closure Commission inspected Laughlin, more than 20,000 Del Rio residents, two-thirds of the town's population, lined the streets to express their support of Laughlin Air Force Base and the Air Force in general.

It was no surprise that this suit was filed by an outside group with a long history of agitation and disregard for justice, Texas Rural Legal Aid. TRLA is a Legal Services Corporation grant recipient and it has attempted to have taxpayers foot the bill on their assault on the Constitution and their assault against the rights of military personnel.

I am glad to report that we stopped their effort in its tracks and have introduced legislation, H.R. 699, the Military Voting Rights Act. This legislation would prevent any future threats to military voting rights by guaranteeing the right of the military to vote in State and local elections. We need this guarantee because the threat is real. If we fail to act, we run the risk of further suits in other States threatening our military's constitutional rights.

The importance of this legislation crosses all party lines. There is bipartisan support for this legislation. We already have over 50 cosponsors, including conservatives like ourselves and liberals like Bobby Rush and Sam Gejdenson. Quite simply, there is no valid reason to oppose this bill.

Eight hundred military voters in Val Verde County were intimidated by questionnaires sent by the plaintiff which represented an enormous invasion of privacy. Colonel Brown will share his personal perspective on this shortly.

Let me share with you the comments of the Chairman of the Joint Chiefs of Staff, General Shalikashvili. He stated before a hearing at our National Security Subcommittee on Appropriations

that, and I quote, "I find this very objectionable, first of all, and I have been very concerned about this issue. I have discussed this with all of the chiefs, and all of us have written a letter to Attorney General Reno asking for her assistance in this matter. So we are greatly concerned about it."

Let me also read to you some of the questions so can you draw your own conclusions about whether or not this is voter intimidation.

Question sent to the military personnel voters: What is the complete address of every place where your spouse lived on November 5, 1996? Did he or she usually sleep there at night? List the names and addresses of persons who were living in Val Verde County on November 5, 1996, to whom you and your spouse are related, and indicate the nature of their relationship. Are you currently or in the past have you been a member of the parent-teacher association of the school where your children have attended school? If yes, for each membership, state the name of the school at which your spouse is or has been a member of a parent-teacher organization, the dates of such membership, whether you were ever an officer of the organization, and the name of your children attending such school. Do you or your spouse have any credit cards? If yes, for each card, describe the type and state to whom the card is issued, the address to which the bill is currently sent, and the address to which the bill was sent in November of 1996.

I cannot picture this in any other way except as being the most incredible case of voter intimidation probably in the last quarter century.

Can you imagine, Mr. Chairman, if these kind of questions were submitted to minority groups in some part of the country? There would be outrage all over America at the kind of personal questions being asked of you before you cast your ballot?

In some cases they were also asking about what you did on your time off, do you have a fishing license? and things like that. Imagine if those were asked of minority potential voters around the country. There were 23 pages of those questions to respond to.

Our military must never again be subjected to such an indignity. Our military must never again be treated like second-class citizens, and cases such as this must never again be allowed to see the light of day.

The Val Verde case is full of ironies. The attack on the military's constitutional rights occurred in one of our Nation's most patriotic towns. The plaintiff has attempted to use the Voting Rights Act to limit the right to vote. Military voters, who are disproportionately minority, are seeing their voting rights threatened in the name of protecting minority voting rights. And, finally, and most tragically, injustice is occurring in the name of justice. Our legislation would put a stop to this double talk.

In conclusion, Mr. Chairman, my testimony can be summarized in two words: justice and sacrifice. Our military have made tremendous sacrifices to preserve the freedom all Americans enjoy today. The least we can do is assure them of justice, their justice when their constitutional rights are attacked. H.R. 699 lets us meet that commitment.

I appreciate again the opportunity you have given us to testify this morning.

[The prepared statement of Congressman Bonilla appears at p. 27.]

The CHAIRMAN. Thank you. There may be some questions at end of this panel.

Mr. Johnson.

STATEMENT OF HON. SAM JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. JOHNSON. Thank you, Mr. Chairman. I appreciate the opportunity to come here too on the Military Voting Rights Act of 1997.

Let me just add to what Mr. Bonilla said, you know, the Texas legislature in this current session that just ended attempted—some of them attempted to put into law, into Texas law, a provision which would not allow the military to vote in local or county or State elections; okay in Federal elections.

You know, I was in the military a long time, and it seems to me that you are assigned by the military to where you are going to be stationed, and Laughlin happens to be in Del Rio, which is the case we are talking about right now. But those guys were stationed there. They were assigned there. They were defending their Nation there. And to think that they couldn't vote in local or State elections is ludicrous, in my view, and it is time we fixed it. That is why I think this bill is so important.

President Harry Truman said in 1952, quote, about 250,000 men and women in the Armed Forces are of voting age at the present time. Many of those in uniform are serving overseas or in parts of the country distant from their homes. They are unable to return to their States either to register or to vote. Yet, these men and women who are serving their country, and in many cases risking their lives, deserve, above all others, the right to vote in an election year. At a time when these young people are defending our country and its free institutions, the least we at home can do is make sure that they are able to enjoy the rights they are being asked to fight to preserve, end quote.

I think Truman was right on target. I think it is an inherited right of the military to be able to vote. I think in many cases, as you know, people forget what our military has done to defend this country and the sacrifices that they have gone through.

You know, having been in the military, I can tell you the importance of continuing the right of military personnel to vote in Federal, State, and local elections wherever they may be assigned. During my 29 years in the Air Force, I often found myself thousands of miles away from my hometown of Plano, TX, but regardless of whether I was in Asia, Europe, or another far off place, I was still a citizen of the United States of America, and the State of Texas, and whatever locale I happened to be living in, and I shared the same interests and concerns as my fellow Texans.

Throughout my years in the military, I saw countless acts of sacrifice by members of our Armed Forces to protect and ensure the rights of others less fortunate than us, and I can't imagine coming to a time in our history when someone would take action to deny the right of our servicemen and servicewomen to vote.

You have heard the detail of Val Verde and that instance down there, and I think the other atrocity that occurred, in my view—and, Mr. Evans, I understand that you were part of LSC, but LSC got involved in trying to stop our veterans from voting. And I am sure it was somebody down below in the system that did it without thinking, because when we got into it, they stopped. But Federal taxpayer money was used to stop American servicemen from voting, and this bill, which I cosponsored with Mr. Bonilla, is set to fix that problem forever. I hope you can get it out of here.

Thank you very much for letting me testify in front of your committee.

The CHAIRMAN. Thank you, Sam. And thank you, both of you, for bringing this to our attention and standing up for our men and women in uniform.

I would like to introduce one of Henry's constituents, Colonel Bruce Brown of Hickam Air Force Base in Hawaii.

STATEMENT OF COL. BRUCE A. BROWN, U.S. AIR FORCE, HICKAM AIR FORCE BASE, HAWAII

Colonel BROWN. Mr. Chairman, members of the House Veterans' Affairs Committee, thank you for this opportunity to express my personal opinion on what I truly believe is an affront to my rights as an American citizen, and that is the basic right to vote in my home of record.

I am a career Air Force officer and pilot who has had the opportunity and good fortune to serve our country for more than 23 years, and I now come before you today to speak to you as an American citizen who is a member of your Armed Forces.

In the fall of 1996, I did what I considered my civic duty and voted in the November election. I have done this on a regular basis since I entered the Air Force in 1973, for several reasons. First, I consider it imperative that all citizens exercise their right to vote, a civic duty; second, to express my opinion at the ballot box on the performance of our Government; and lastly, out of reverence for those who have gone before us and made the ultimate sacrifice to give us this right.

In January, I received a court-ordered document, a questionnaire, which I found to be even more intrusive than a security clearance investigation, a 24-page document which ordered—that includes the comments—which ordered me to reveal my credit cards, bank accounts, even where my wife was sleeping on certain nights.

I resisted filling out this document, but on advice of my attorney, I spent the hours it took to complete this document. The whole purpose of the document was to challenge my residency of Val Verde County, Texas, question my citizenship and the right to vote on all issues as other Americans do. I could not remain silent. For the first time in my career, I wrote my Congressman, Congressman Bonilla of Texas. It is on his invitation that I appear before you today.

Since I entered the Air Force in 1973, I have been permanently stationed at nine different installations, California, Louisiana, Texas, Michigan, Nebraska, North Dakota, Washington, DC, Belgium, and now Hawaii, where I command the 15th Air Base Wing

at Hickam Air Force Base. This summer will be the first time in my 23-year career to be assigned to the same area twice, my tenth assignment, to the Pentagon in August. And although raised in Georgia, I have returned to Georgia for no more than a week at a time to visit my family in any year, and many times not returning for several years.

After moving to Texas, I made the decision that this was a place I could live and grow upon retirement. I love Texas, and while not a native son, I have always been proud to claim Texas as my home of record. I don't own land in Del Rio, TX, but I have a Texas will. I have not visited Texas but a few times in the last 20 years, but I still bank there. I don't own a home or have relatives in Val Verde County, but I vote there. I don't drive a car in Texas, but my car insurance is still from there. Even my driver's license is from there.

Those ownership, family, or visitation questions asked on the questionnaire should not negate the fact that I am still a legal resident of Texas and Val Verde County and I am entitled to the same rights and privileges of those citizens who haven't felt a call to serve their country in uniform, who don't know what it is like to pack up all their belongings and move every 2 or 3 years, who don't know what it is like to be separated from the family for extended periods of time, who don't know the hardships families must bear to support members of our Armed Forces.

Mr. Chairman, members of the committee, I come today as an American citizen and military officer. First, I am worried that to limit the vote of members of the Armed Forces is to place them in a category of second class citizens. Second, if we allow members of the Armed Forces to be denied that right to vote, who is next? If my vote isn't allowed to count in all elections, then my right to vote no longer exists.

Thank you for this opportunity to speak to you as an American and concerned Texas citizen.

[The prepared statement of Colonel Brown appears at p. 29.]

The CHAIRMAN. Thank you, Colonel.

I would like to recognize the ranking member of the committee for any statements he may make or for questions.

Mr. EVANS. Thank you, Mr. Chairman.

I would introduce my opening statement for the record, with unanimous consent.

The CHAIRMAN. Without objection. Thank you.

[The prepared statement of Congressman Evans appears at p. 24.]

The CHAIRMAN. Henry, let me ask you, under H.R. 699, would the spouses and dependents be afforded the same right to cast an absentee ballot as the men or women in uniform?

Mr. BONILLA. Yes, sir, Mr. Chairman, if they declared their residence in that area as well.

The CHAIRMAN. Sam, did you think while you were in the service that someone in your State would try to deny you the right to vote?

Mr. BONILLA. I was not in the service, but my hometown was 150 miles from Laughlin Air Force base, and we consider ourselves "Military City, U.S.A." in San Antonio. The culture is intertwined, and has been for generations, with the military. My father was in

the military, my father-in-law and many of our neighbors were as well, and we were a very, very close knit group. We watched our people go off over the years and serve our country in all parts of the world. And those of us who support the facility just feel very strongly. The least we can do, Mr. Chairman, is guarantee their opportunity to vote like every other American at their declared place of residence.

Mr. JOHNSON. I know who you addressed that question to. That is fine. He answered it very well. I did have a lot of trouble getting an absentee ballot one election year, but other than that, I was never denied the right to vote. I was living in Dallas the whole time I was in the service.

The CHAIRMAN. Thank you, sir. Let me turn to Mr. Mascara.

Do you have any questions, Frank?

OPENING STATEMENT OF HON. FRANK MASCARA

Mr. MASCARA. Mr. Chairman, thank you. I have a statement that I would like to enter into the record.

The CHAIRMAN. Without objection.

[The prepared statement of Congressman Mascara appears at p. 25.]

Mr. MASCARA. But as a former county commissioner, gentlemen, I had the responsibility to oversee elections in my county in Pennsylvania, Washington County. And it is reprehensible, unconscionable, to think that someone would ask those questions before they would be given an opportunity to vote.

In most cases when our board, when its three-members denied a vote for some reason, we thought it should be denied, and it was appealed to the courts, in almost every instance, the courts upheld that person's right to vote, not to disenfranchise them. And it shocks my conscience to hear what is going on in Texas.

So I fully support your bill, gentlemen, and hope that it will be speedily passed.

Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Frank.

Dr. Snyder, questions?

OPENING STATEMENT OF HON. VIC SNYDER

Mr. SNYDER. Just some specific questions if I might, Mr. Chairman.

And maybe I need to address these to the CRS staff attorney, but help me in the language of the bill. Where in the language of the bill does it cover dependents? When it talks about a person in compliance with military and naval orders, are we saying that includes 18-year-old children, even though the 18-year-old may not have gotten the order but if he is following mommy and daddy? Or should I wait until we have our staff attorney?

Mr. BONILLA. The gentleman brings up a good point. If it is not clear in the bill, the intent of the bill is to have residents who are also moving with the military personnel and stationed in different parts of the country included as well. It would be silly to not include them, and perhaps we need to clarify that in the bill to make sure it does include dependents, because that is the intent of my bill.

Mr. SNYDER. It may be that somewhere in the Soldiers and Sailors Civil Relief Act of 1940 a person is defined as more than just the person in uniform, but it doesn't say "and dependents" here or "those domiciled with them" or anything.

So the other question I have is in the section here that says each State shall accept and process otherwise valid voter registration applications if they are received by the appropriate State official not less than 30 days before the election.

Now, I am in a State that does not have—we don't—well, we actually register, we don't register by party. My question is that probably every State has a little bit different guidelines as to when they would accept voter registration, and effectively what we are going to do by this is set up kind of a dual class of voter registration.

Frank might want to help me on this. I don't know what it is in Arkansas, if there is some Federal guideline that says 30 days. What if we have a State that is 45 days and then effectively we are saying if you are in uniform, you have an extra 2 weeks? Again, I guess I will address it to the attorneys.

Was this 30 days put in there for some specific reason with regard to military people? Are we intending to set up a dual standard?

Mr. BONILLA. The State of Texas is like your State in that we don't register by party, but we do register to vote. We attempted to put in a time line that we felt was reasonable that every State could accept without, hopefully, any burden on their normal voter registration deadlines.

Mr. SNYDER. Thank you, Mr. Chairman.

The CHAIRMAN. That is a good question, and with the concurrence of the sponsors, counsel will try to get together and, before we take final action, try to clarify that point.

Mr. BONILLA. I appreciate that, Mr. Chairman. And the question points out something that needs clarification in detail.

The CHAIRMAN. Mr. Reyes.

Mr. REYES. Thank you, Mr. Chairman.

I don't really have any questions of the panel. I just would like to say that I support H.R. 699. I think this is not a partisan issue, this is an issue of rights, and, being a veteran myself, it is an issue of protection for the rights of the veterans.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman.

I would like to direct my question to Congressman Johnson or Congressman Bonilla, whoever is most familiar.

Would H.R. 699 prevent States from subjecting military personnel to this sort of residency questionnaire that Colonel Brown received?

Mr. BONILLA. It does not specifically eliminate the questionnaire. It simply says you have got to allow them to vote. So it would prevent any effort to do otherwise.

Mrs. CHENOWETH. I understand that H.R. 699 would prevent States from denying domicile to military personnel solely on the basis of their absence. Can you elaborate on what constitutes an absence?

Mr. BONILLA. Well, for example, if military personnel are registered—declare residency in a particular area like in Laughlin Air Force Base in Del Rio and they are sent to Bosnia or some other part of the world, this would prohibit anyone from saying, since you have not been here for a few weeks or a few months, you should not have a right to cast a ballot in a local election. And this would simply supersede any effort like that.

Mr. JOHNSON. Let me, if I might, add on the first part of that question, it was a Federal judge that dictated that questionnaire at the request of the local officials. And it was part of the Voting Rights Act that they got it in a Federal court in the first place. So a Federal judge ruled on this in that manner, and probably—off the record—he ought to be impeached.

Mrs. CHENOWETH. Yes, and—off the record—that is a good reason why some of us are in favor of term limits for Federal judges.

But, thank you, Mr. Chairman. That is all the questions I have. I do have a statement that I would like to enter into the record.

The CHAIRMAN. Without objection, certainly.

[The prepared statement of Congresswoman Chenoweth appears at p. 25.]

The CHAIRMAN. Mr. Moran.

Mr. MORAN. I have no questions, Mr. Chairman. I appreciate the opportunity to hear the testimony and appreciate Mr. Johnson and Mr. Bonilla bringing this issue to congressional attention.

The CHAIRMAN. The gentleman from Alabama, Mr. Everett.

Mr. EVERETT. Mr. Chairman, I have no questions. I would like to congratulate the sponsors of this bill, two colleagues of mine, two really proud Americans, and I am proud to be associated with them.

This is a good bill. There are obviously a few things that need to be corrected, and I appreciate them bringing the bill up.

The CHAIRMAN. Gentlemen, thank you very much.

Colonel, thank you for taking the time to be with us today.

The CHAIRMAN. And now I would like to call up the second panel, please. Gentlemen, let me welcome you.

We have Lieutenant General Thad Wolfe, Air Force Association, who is testifying on behalf of the entire Military Coalition.

General WOLFE. Yes, sir, that is correct.

The CHAIRMAN. Your statement will be made a part of the record. If you care to summarize, we appreciate it. You may proceed.

STATEMENTS OF LT. GEN. THAD A. WOLFE, USAF (RET.), CHAIRMAN, AIR FORCE ASSOCIATION VETERANS AND RETIREES COUNCIL, ON BEHALF OF THE MILITARY COALITION; JOHN M. MOLINO, DIRECTOR OF GOVERNMENT AND PUBLIC AFFAIRS, ASSOCIATION OF THE ARMY; LARRY D. RHEA, DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS, NON COMMISSIONED OFFICERS ASSOCIATION; AND BOB MANHAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICES, VETERANS OF FOREIGN WARS

STATEMENT OF LT. GEN. THAD A. WOLFE, USAF (RET.)

General WOLFE. Mr. Chairman and distinguished members of the committee, on behalf of the Military Coalition, I would like to express our appreciation to the House Veterans' Affairs Committee for holding this important hearing. This testimony provides the collective views of the 24 military and veterans organizations of the Military Coalition, which represent approximately 5 million members of the 7 uniformed services, officer, enlisted, active and reserve, veterans and retired, plus their families and their survivors.

The Military Coalition, as you may know, does not receive any Federal grants or contracts from the Federal Government. The right of Active Duty military personnel and their dependents to vote in all Federal, State, and local elections needs to be reemphasized. Recent problems have again reminded us that the right to vote must be fought for time and time again. This legislation, once enacted, will correct this inequity.

The mobile military lifestyle discourages military families from changing their legal domicile every time they move on government orders. Most families retain the same legal domicile for a majority of the military members' career. Legal domicile is determined by the individual State and, once granted, confers the right to vote.

In the Military Coalition's view, the question is: Do State and local governments have the right to impose additional potentially extreme qualifying rules for service members whose official duties require them to serve away from their legal residence for years at a time? We believe the answer is no.

The Military Coalition affirms the unequivocal right of all service members and their families to vote by absentee ballot without being subjected to additional intrusive requirements.

The Coalition believes that H.R. 699, the Military Voting Rights Act of 1997, ensures that those who protect the Nation's freedoms are not denied the right to exercise the very freedoms that they protect.

Thank you very much.

[The prepared statement of General Wolfe appears at p. 31.]

The CHAIRMAN. Thank you, General.

Mr. Molino, Association of the Army.

STATEMENT OF JOHN M. MOLINO

Mr. MOLINO. Mr. Chairman, on behalf of the 110,000 members of the Association of the U.S. Army, thank you for this opportunity to testify in support of H.R. 699, the Military Voting Rights Act.

I have submitted a statement which I ask be made a part of the official record, and for a moment I would like to offer a brief oral summary of that statement.

The CHAIRMAN. Please proceed.

Mr. MOLINO. This is, in fact, a law that should not be necessary, in our opinion. To concentrate on the positive aspects, however, we are grateful to Mr. Bonilla and Mr. Johnson for their submission.

This country has come a long way since the days when voting rights were denied because of the color of one's skin, and this Congress cannot now sanction denial of the right to vote because of the color of one's uniform.

Thank you again, Mr. Chairman, for this opportunity to testify.

[The prepared statement of Mr. Molino appears at p. 34.]

The CHAIRMAN. Thank you, sir. And let me say that all of your statements will be made a part of the record in their entirety.

Mr. Rhea, NCOA, the Non Commissioned Officers Association.

STATEMENT OF LARRY D. RHEA

Mr. RHEA. Mr. Chairman, the NCOA thanks the distinguished chairman for the invitation to testify this morning. And, simply put, Mr. Chairman, the Association wholeheartedly and enthusiastically supports H.R. 699, the Military Voting Rights Act of 1997.

The Association also wants to extend our salutes to Representatives Henry Bonilla and Sam Johnson for introducing this legislation and for their testimony this morning. And we thank you, Mr. Chairman, for scheduling and holding the hearing and for the quick action that you are taking on the measure. In our view, there is nothing complicated or controversial about the measure that would preclude its immediate consideration and passage.

The Association has also written to the chairmen and ranking members of the House Committee on the Judiciary and House Oversight Committee in support of the bill. We have asked that they, too, move expeditiously and favorably on H.R. 699.

As the committee members know, military members give up many freedoms while serving in the Armed Forces. Restrictions are placed on their political activities, and Armed Forces members understand and abide by those limits. The right to vote is the only form of political speech that a military member can exercise freely and without restriction, and that really, Mr. Chairman, forms NCOA's basis of support for H.R. 699. If that singular form of political free speech by a military member, their right to vote, is threatened, then all forms of political free speech by all Americans is placed in jeopardy.

In our written testimony, NCOA brought to the attention of the committee a situation that we believe is related to H.R. 699, and we believe this legislation represents an opportunity to address that situation.

As we pointed out, some States and localities do not permit registered voters to apply for an absentee ballot more than 30 days prior to the scheduled election. By our estimate, this has the consequence of potentially denying more than 20,000 sailors of the Submarine Service their right to vote. When submerged on patrol for a 90-day deployment, they have no way to apply for, receive,

and return an absentee ballot. We therefore ask that appropriate language be inserted in H.R. 699 that would guarantee the right to vote in this extenuating circumstance that is unique among the military services.

In conclusion, Mr. Chairman, NCOA strongly supports H.R. 699, and please be assured that you have our full support to achieve its enactment into law.

Thank you.

[The prepared statement of Mr. Rhea appears at p. 38.]

The CHAIRMAN. Thank you.

Mr. Manhan, VFW.

STATEMENT OF BOB MANHAN

Mr. MANHAN. Thank you, Mr. Chairman and members of the committee, for inviting the VFW to participate in this important hearing this morning. The VFW's 2 million members strongly support the bill, H.R. 699, titled, the Military Voting Rights Act of 1997.

Like my fellow colleagues, we were unpleasantly surprised that a State or a local jurisdiction would attempt to deny Active Duty military people their constitutional right to vote in a local election simply because they were not at home; that is, they were working elsewhere performing duties regarding our national defense.

Therefore, this morning the VFW considers it both a privilege and a pleasure to be part of the process that will try to enact this proposed bill into Federal legislation to preclude local governments from ever again denying the constitutional right of military personnel to vote in local elections. This summarizes our position.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Manhan appears at p. 41.]

The CHAIRMAN. Thank you, Mr. Manhan.

We may have a couple of questions we would submit to you for the record if you would answer them, please, and not take time this morning. And let me thank you for taking the time to be here with us this morning.

Are there any questions from members of the committee? Dr. Snyder.

Mr. SNYDER. Just a quick question for Larry.

You are thinking there needs to be additional language in here, is that correct, to deal with that situation where they say no absentee applicants can come in for 30 days? So that means that someone who thinks ahead, is sitting over in South Korea and they send it in, it would be rejected if they send it in? Did I hear you say that?

Mr. RHEA. Yes, sir. Certainly as the chairman has indicated, you are going to look at the bill to see if dependents are specifically included. I would ask that the counsel also look at the legislation to make sure that the point we addressed in our testimony is included in that. If additional language is not necessary, that is fine. But we are not convinced that it includes those people.

Mr. SNYDER. I am not sure either.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Doctor.

Others? Mr. Reyes?

Mr. REYES. No.

The CHAIRMAN. Gentlemen, thank you very much. Thanks for taking the time to be here.

The CHAIRMAN. Our third panel, if Mr. Killian would come up please. Mr. Killian is the constitutional law attorney at Congressional Research Service.

Mr. Killian, we welcome you. Your statement will be printed in the record in its entirety. You may summarize in any way you see fit.

STATEMENT OF JOHN H. KILLIAN, LEGISLATIVE ATTORNEY, AMERICAN LAW DIVISION, CONGRESSIONAL RESEARCH SERVICE

Mr. KILLIAN. Thank you, Mr. Chairman.

As a member of the Congressional Research Service, I am, of course, here not to advocate or to speak to the policy issues surrounding this. I can address the constitutional questions that may be raised by the bill.

There are many constitutional issues that are quite difficult, even after 200 years, to settle. Fortunately, this bill does not raise any of those. The precedents, the history of Congress' dealings with active military personnel and other people in the military, goes back at least to World War I with the enactment of the first Soldiers and Sailors Relief Act. Those laws were based on Congress' power to raise and maintain an army and a navy, which at its core, of course, deals with the actual maintenance of the military forces.

But that power, coupled with the Congress' authority to legislate all necessary and proper laws to carry out the powers vested in it, extends as well, as Congress has acted on and as the courts have upheld, legislation that protects the morale, the rights, the privileges, the immunities, and the well-being of military personnel.

The laws and the Soldiers and Sailors Relief Act had a great impact on State laws. It affected—restricted the ability of States to tax; it restricted the use of the State courts for creditors to collect debts from people who were absent from the State in the military service.

And Congress has, in fact, dealt with the issue of voting in Federal elections under the same kind of premises, that the right to vote of military personnel where they establish residence or domicile is paramount and should be protected, so that the Congress' war powers and its powers to maintain the military provide more than adequate support for this bill.

In addition, there is a secondary source of authority, which is the power to enforce the 14th amendment, which is given by section 5 of that amendment. The Supreme Court, in a case called *Carrington v.* Rash, which arose in Texas, struck down a Texas policy of denying the right to vote to any military personnel except in the jurisdiction in which they resided when they enlisted or were drafted into the military.

The Supreme Court in Carrington held that that statute violated the equal protection rights of persons in the military who had established a valid residence or domicile in the State. The decision did not deny the right of a State to establish reasonable regulations of domicile and residence. It did deny the State the power to treat

military personnel differently. And the Congress' power to enforce the 14th amendment equal protection clause under section 5 provides additional support to the military powers and the necessary and proper legislation of Congress.

That concludes my statement, Mr. Chairman. I would be glad to attempt to answer any questions of you or of the committee.

[The prepared statement of Mr. Killian appears at p. 42.]

The CHAIRMAN. Thank you, sir, and thank you for being with us. Questions? Mr. Rodriguez?

OPENING STATEMENT OF HON. CIRO D. RODRIGUEZ

Mr. RODRIGUEZ. Let me apologize for being late. I was familiar with what transpired in Texas, with the specific situation. I don't know what the dialogue has been here before. But one of my understandings is that if you are in the military, you don't have to be in the roster, that you can actually vote 7 days before an election, and so that if you are an elected official, I cannot get that list—I really cannot have access to that. And in Texas you have to be registered 30 days before in order to be able to vote. So they are treated a little bit differently.

I wanted you to comment also on some other situations where you have individuals—one individual, for example, who was never stationed in that particular base, was only assigned to be stationed there, yet voted there. A good number of them haven't lived in the area for over 25 years or 20 years. Some that have voted in Bexar County voted there also. And also we had a situation where we had individuals that were in other States for 20, 30 years, and still voted in Texas. And I presume it is because they are trying to get away from the income tax in the other States.

Can you comment on those in terms—because I know that is what Texas was trying to clarify, you know, those 800 votes that were cast in that particular county.

Mr. KILLIAN. I realize, sir, that the facts in the Texas situation, the Val Verde situation, are much disputed. There was a decision by the Federal district court there. The matter, I understand, went to trial in the State courts in April, and I am not sure—I don't think there has been a decision since. So I would hate to get involved in the particular facts of the case.

But the Constitution permits—and this legislation would not alter that—each State to establish its own residency and domicile requirements, the requirements that people do actually reside in a jurisdiction. One in the military could not vote simply because he was stationed there. He perhaps maintains a domicile some place else. But if he does, he or she does establish domicile or residence in the State and satisfies the reasonable State requirements for domicile or residence, then this bill would regulate that in terms of not singling out a military person's absence from the State as a basis for denying domicile or residence for the absentee ballot things.

Now, whether it is going to have a direct impact in the Val Verde situation, or a similar kind of situation, I could not venture to say because, as I said before, the facts are very much in dispute.

Mr. RODRIGUEZ. So in that particular case, if the State decides that you have to be registered 30 days before, like everyone else

has to be, and that that has to occur, and you are a resident, and somehow you show that you have some property there or something, or you plan to come back, then it is not impacted, is what you are saying?

Mr. KILLIAN. Well, the bill does make provisions for application for absentee registration and absentee balloting and the like, and to that extent, it would make alterations.

My point is that it would simply not change the rules of a State with respect to the actual requirements of domicile or residence. It might very well make some changes with respect to the ability to vote—to register and to vote by a military person who has established to the State's satisfaction or the locality's satisfaction either he or she is a resident of the jurisdiction.

Mr. RODRIGUEZ. Have you had access to the existing—the legislation that we just passed in Texas?

Mr. KILLIAN. No, I have not.

Mr. RODRIGUEZ. So you haven't seen it?

Mr. KILLIAN. I have not.

The CHAIRMAN. Mr. Rodriguez, you might also direct that question to the next panel.

Dr. Snyder.

Mr. SNYDER. Just one question, I think. Your constitutional arguments now on this section in here with regard to voter registration that sets up this 30-day standard, are we creating our own constitutional equal protection argument here? I mean, some States are trying to head to same-day voter registration and some things like that. Am I barking up the wrong tree here?

Mr. KILLIAN. I think in terms of the legislation being remedial, it establishes particular rules that may be necessary by the facts of a person's situation: Absence from the State, absence from the country, and that sort of thing. So that you do have the possibility of an equal protection claim being raised. But in terms of the resolution of that claim, the distinction of treating military personnel more favorably perhaps than civilian residents who are absent, the resolution of that equal protection claim is fairly easily resolved.

Mr. SNYDER. Okay. Thank you.

The CHAIRMAN. Mr. Reyes, did have you any questions?

Mr. REYES. No questions.

The CHAIRMAN. Ms. Carson, welcome this morning. Would you care to ask a question?

Ms. CARSON. Not yet.

The CHAIRMAN. Mr. Cooksey, I hate to take you on such short notice. Would you care to ask any questions? If not, we will move on to the next panel.

OPENING STATEMENT OF HON. JOHN COOKSEY

Mr. COOKSEY. No questions. I have a position on this issue.

Incidentally, I have a lot of confidence in the information we get from CRS, and you have been helpful to me as a freshman Republican. My daughter is concerned that I am one of the oldest freshman Republicans, but we need a lot of help.

I am a veteran, and I feel very strongly that veterans ought to be able to vote. I was stationed in Texas at two different bases during the Vietnam period. And, you know, we have a tradition in

Louisiana of voting irregularities. But I feel very strongly that the veterans should be able to vote, and in this case I think there was a miscarriage of justice by whatever organization. I think we know who it was that did that. It is just not fair to these veterans. Here are people that put on the uniform, they get transferred around, and they voted, and they voted by absentee ballot, but they lost their vote.

Anyway, just for the record, I feel very strongly about this, particularly in that particular area. I was stationed a little bit north of there.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Other questions?

Mr. Killian, thank you very much.

Mr. KILLIAN. Thank you very much, Mr. Chairman.

The CHAIRMAN. Now our last panel is Phyllis Taylor, director for voting assistance programs of the Defense Department. And I believe Ms. Taylor is accompanied by Paul Koffsky, deputy general counsel, and Brad Wiegmann, assistant deputy counsel.

Your statement will be printed in the record in its entirety.

Let me say before you start, Ms. Taylor, that we are extremely disappointed that DOD withheld their statement—or the administration, whoever was responsible—until after 9 o'clock this morning. We request those statements early to give our members and staff a chance to look them over, to properly prepare questions. To say the least, I think it is discourteous to this committee not to provide your statement in advance. I am not blaming you personally, but if someone would get the word back, I would appreciate it.

Ms. TAYLOR. Mr. Chairman, I apologize. I was trying to get the latest statistical information to you on voting participation by the military, and that was not available to me until the last minute. I was also in a business conference. And I do apologize.

The CHAIRMAN. Thank you. You may proceed in any way you see fit.

STATEMENT OF PHYLLIS J. TAYLOR, DIRECTOR FOR FEDERAL VOTING ASSISTANCE PROGRAMS, WASHINGTON HEADQUARTERS SERVICES, DEPARTMENT OF DEFENSE, ACCOMPANIED BY: PAUL KOFFSKY, ESQ., DEPUTY GENERAL COUNSEL, PERSONNEL AND HEALTH POLICY; AND BRAD WIEGMANN, ESQ., ASSISTANT DEPUTY GENERAL COUNSEL, OFFICE OF LEGAL COUNSEL

Ms. TAYLOR. Thank you.

I have submitted my written statement to the committee this morning, as you stated. And, Mr. Chairman and members of the committee, I am Phyllis Taylor, the director of the Federal Voting Assistance Program, and I appreciate the opportunity to discuss with you this morning the Federal Voting Assistance Program and to briefly comment on the proposed legislation, H.R. 699, the Military Voting Rights Act of 1997.

Voting participation by citizens covered by the Uniformed and Overseas Citizens Absentee Voting Act has increased consistently. In 1996, voting by the military and overseas citizens not affiliated with the Government represented 3 percent of the total votes cast

in the general election. Military participation was 64 percent, and citizens overseas not affiliated with the Government was 37 percent, with 87 percent of the military voting absentee.

In 1994, a nonpresidential election year, while participation by the general public was 39 percent, military participation was 42 percent. The Uniformed and Overseas Citizens Absentee Voting Act includes several recommendations for changes in State laws, and we have worked successfully with the States and territories to streamline and bring uniformity to the electoral process and make it easier for the uniformed service personnel and overseas citizens to participate in the democratic process.

And so prior to specifically addressing H.R. 699, I would like to share with you the progress that my office has made with all the State and local governments to ensure the enfranchisement of military personnel as well as citizens overseas.

Presently, all the States and territories accept the Federal postcard application form simultaneously as a request for registration and ballot from uniformed service citizens to participate in elections in local, State, and Federal offices. Thirty-nine States provide 40 days or more for ballot transit time to ensure that the military voter and overseas citizens are able to meet the State deadlines. Forty-six States and territories allow the submission of one Federal postcard application form in a calendar year for all elections in that calendar year.

Only four States require the voted ballot return deadline from military voters and overseas citizens prior to Election Day, and four States have expanded the use of the Federal write-in absentee ballot beyond the Federal office and the general election.

Twenty-four States allow a State special write-in ballot for the military voter or overseas citizen who, due to remote location or requirements of the military service, are not able to follow regular absentee voting procedures.

Forty-one States and territories allow electronic transmission of election materials as an alternate method if the citizen is unable to vote otherwise. The electronic transmission service is provided by the Federal Voting Assistance Program at no cost to State and local governments, and during the 1996 election year, electronic transmissions of election material were routed to 2,206 local offices in 50 States, the Virgin Islands, Puerto Rico, and the District of Columbia. Voters were served in 94 foreign countries as well as throughout the U.S.

All the States except one allowed electronic transmission as an alternative method for military voter citizens serving in Operation Joint Endeavor. These initiatives as well as others are detailed in my formal written testimony that I submitted before you today.

In reference to H.R. 699, the Federal Voting Assistance Program continues to work within the State and local government statutory requirements and consults with the State and local election officials in carrying out the responsibilities of the Uniformed and Overseas Citizens Absentee Voting Act, and in doing so, we are continuing to make progress in streamlining and bringing uniformity to the electoral process. The adoption of H.R. 699 further supports the State and territory statutes providing for a local, State, and Federal office ballot to uniformed services.

And I thank you for giving me the opportunity to discuss the program and to briefly comment on H.R. 699.

[The prepared statement of Ms. Taylor, with attachment, appears at p. 47.]

The CHAIRMAN. Thank you, Ms. Taylor.

Was anyone else going to make a statement?

Ms. TAYLOR. No, sir.

The CHAIRMAN. Are there questions from the panel?

Ms. CARSON. Mr. Chairman, I have a question about the notarization of the Federal postcard.

Are you saying that the postcard has to be notarized in order to be eligible for participation?

Ms. TAYLOR. In a few States.

Ms. CARSON. These States are listed here?

Ms. TAYLOR. Yes. Most States have streamlined the process over the years since this law has been in existence, and in most States notorization is not a requirement.

Ms. CARSON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Rodriguez.

Mr. RODRIGUEZ. Let me also just indicate that there is no doubt that I would definitely be very supportive and I support the idea of making sure that people do vote, and especially those that serve our country. I do have a problem with people that use that to get away from paying income taxes in other States and get away from—and especially when they vote in local races, where they have never lived in the community and probably have no intentions of ever living in that community, and then vote for the local sheriff or the local commissioner.

In the Federal postcard that you have right now, my understanding is that they don't have to show up in any register of that particular county; is that correct?

Ms. TAYLOR. No, that is not correct, sir. The Federal postcard application form has been coordinated with all the 55 major jurisdictions to meet their requirements for registration and a ballot. And once the military voter completes the Federal Post Card Application accurately and submits it to the appropriate locale in the State, that State official or local official determines that it meets their requirements for residency and for registration and a ballot request, and it is processed at that time or not processed, depending on the accuracy of the form.

Mr. RODRIGUEZ. So that a person could vote, for example, in the case that we have where we have people the previous year voting in Bexar County and then in the following year voting in Del Rio and Val Verde County, where that can occur, where one can decide to shift around and vote in another county from the previous year?

Ms. TAYLOR. That I would not comment on. A military voter, as any other citizen, must meet the requirements of a State, and the State at the local level determines if that citizen meets the requirement to vote in that jurisdiction. And that is between the citizen and the locale, just as it would be for yourself if you were voting absentee.

Mr. RODRIGUEZ. How does this legislation change that?

Ms. TAYLOR. I don't interpret it that it does. I think it embraces what the State and local governments already do in providing a full ballot for the military.

Mr. RODRIGUEZ. There are some States that only allow them to vote in Federal races?

Ms. TAYLOR. To my knowledge, all the States allow the military at this point to vote a full ballot.

Mr. RODRIGUEZ. That is your understanding?

Ms. TAYLOR. Yes, that is correct. It is correct.

Mr. RODRIGUEZ. Okay. And if in the process of when they get—I know there was, I think, several that had been discharged and were still—is there a way of checking to make sure that that doesn't occur? Are there penalties for someone, for example, that votes in one race and then in another in a different locality? Is there a possibility of checking to make sure that there is not abuse in the system?

Ms. TAYLOR. I cannot address it specifically because election laws are State laws, but there are State laws and Federal laws that prevent fraud of any nature within the electoral process.

Mr. RODRIGUEZ. Within the State, but what if they voted in several States, if they voted in several counties within a State? They could have also——

Ms. TAYLOR. There are administrative procedures within each State as well as laws that prevent such occurrence. I have never known of such a situation of this occurring, and I have been with the program for 20 years.

Mr. RODRIGUEZ. Okay. Thank you.

The CHAIRMAN. Are there other questions? If not—yes, Dr. Cooksey.

Mr. COOKSEY. Mr. Rodriguez, when I was in the Air Force, I was stationed, I went through Brooks Air Force Base, and then I was up at Bergstrom up the road, and I am not saying that everyone in the military is always perfect, but I trust the integrity of the military—members of the military and their voting a lot more than some of the patterns that I know have occurred in your State.

Have you have ever read some of the books about Lyndon Johnson's elections, landslide elections? And if you come to Louisiana, I will show what you goes on, and it is just frightening. And these are not military people. I trust the military a lot more than I do some of the general population voting. And there is some real loss of integrity. There are people that vote five times in New Orleans in one race, which means my vote in Monroe counts nothing.

I did vote three times the other day for Mother Teresa when the voting machine was out. But that is the tradition in Louisiana. But except for voting three times for Mother Teresa, I have never voted three times, but yet in New Orleans it is a routine case.

Mr. RODRIGUEZ. I represent Brooks Air Force Base and Box 13 in Duval County, and as a result of that, I have some concerns with any possibility of making sure we don't have any kind of fraud or misuse of individuals and making sure that they are the ones that are doing the voting and somebody else is not signing the cards for them.

So other than that, yes, I feel very strongly that we also need to make sure that things are—and if there is a possibility of assuring that there are some penalties.

And the only other thing that bothers me is people that have used that for the purposes of maybe not paying their State income taxes elsewhere.

The CHAIRMAN. Thank you.

Other questions?

Ms. Taylor, are you free or are you able to answer whether the administration supports this bill or not?

Ms. TAYLOR. In administering the Uniformed and Overseas Citizens Absentee Voting Act, we have worked continuously with State and local government statutes in supporting a full ballot for the military for many decades.

The CHAIRMAN. Well, if you have any recommendations or specific language that, in your opinion, would strengthen this bill, we would appreciate hearing from you. And if you would care to work with counsel and let us know in the near future before we mark it up, we would appreciate it.

Ms. TAYLOR. I would like to have that opportunity. Thank you.

The CHAIRMAN. Mr. Moran.

Mr. MORAN. Ms. Taylor, is there anything, to your knowledge, in H.R. 699 that would cause difficulties with State and local election officials? Is this compatible with the procedures that they use such that we are not creating any additional burdens?

Ms. TAYLOR. I don't think there is any concern there.

Mr. MORAN. Thank you, Mr. Chairman.

The CHAIRMAN. Let me thank all members of all the panels for testifying today, and the committee stands adjourned.

[Whereupon, at 10:38 a.m., the committee was adjourned.]

APPENDIX

105TH CONGRESS
1ST SESSION

H. R. 699

To guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1997

Mr. BONILLA (for himself and Mr. SAM JOHNSON of Texas) introduced the following bill; which was referred to the Committee on House Oversight, and in addition to the Committees on Veterans' Affairs, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Voting Rights Act of 1997".

1 **SEC. 2. GUARANTEE OF RESIDENCY.**

2 Article VII of the Soldiers' and Sailors' Civil Relief
3 Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by
4 adding at the end the following new section:

5 "SEC. 704. (a) For purposes of voting for an office
6 of the United States or of a State, a person who is absent
7 from a State in compliance with military or naval orders
8 shall not, solely by reason of that absence—

9 "(1) be deemed to have lost a residence or
10 domicile in that State;

11 "(2) be deemed to have acquired a residence or
12 domicile in any other State; or

13 "(3) be deemed to have become resident in or
14 a resident of any other State.

15 "(b) In this section, the term 'State' includes a terri-
16 tory or possession of the United States, a political subdivi-
17 sion of a State, territory, or possession, and the District
18 of Columbia.".

19 **SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY**
20 **VOTING RIGHTS.**

21 (a) REGISTRATION AND BALLOTING.—Section 102 of
22 the Uniformed and Overseas Citizens Absentee Voting Act
23 (42 U.S.C. 1973ff–1) is amended—

24 (1) by inserting "(a) ELECTIONS FOR FEDERAL
25 OFFICES.—" before "Each State shall—"; and

1 by adding at the end the following new sub-
2 section:
3 "(b) ELECTIONS FOR STATE AND LOCAL OF-
4 FICES.—Each State shall—
5 "(1) permit absent uniformed services voters to
6 use absentee registration procedures and to vote by
7 absentee ballot in general, special, primary, and run-
8 off elections for State and local offices; and
9 "(2) accept and process, with respect to any
10 election described in paragraph (1), any otherwise
11 valid voter registration application from an absent
12 uniformed services voter if the application is received
13 by the appropriate State election official not less
14 than 30 days before the election.".
15 (b) CONFORMING AMENDMENT.—The heading for
16 title I of such Act is amended by striking "**FOR FED-**
17 **ERAL OFFICE**".

○

PREPARED STATEMENT OF HON. LANE EVANS

Thank you, Mr. Chairman. the subject of this morning's hearing is H.R. 699, the Military Voting Rights Act of 1997. I look forward to hearing from the witnesses who will be testifying today.

The purpose of H.R. 699 is plain and straightforward. This measure is intended to insure that men and women serving in the Armed Forces are not denied the right to exercise their civic responsibility to vote in local, State and Federal elections.

While recognizing the authority to set reasonable residency standards for voters lies elsewhere, our purpose is to assure members of the Armed Forces full and fair access to the electoral process.

Members of the Armed Forces are simply to be treated in the same manner as any other resident of a local jurisdiction in determining voter qualifications and participation.

Although prompted by a local election dispute, this legislation is not, in my view, part of an agenda to rein in so-called judicial activism. While some may attempt to view this legislation as an effort to limit necessary judicial independence, I do not.

In this regard' we would do well to remember the recent advice of the director of the Center for Constitutional Studies at the CATO Institute . He said, "We have in this country, to a remarkable degree, been blessed by an independent judiciary that takes seriously its charge to scrutinize the political branches as well as the actions of the State. It would be a tragedy if, as a result of this broadside against the judiciary, we were to see the judiciary become something of a handmaiden to the political branches, a rubber stamp for what political authorities do. That is the death of freedom."

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH

Chairman Stump, I would first like to thank you for holding this hearing on H.R. 699, the Military Voting Rights Act of 1997, which as you know, was introduced by our colleagues from Texas, Rep. Henry Bonilla and Rep. Sam Johnson. But, I must say that I am disheartened that this legislation must be considered at all.

As members of this committee are keenly aware, the ability to vote is such a cherished right in America that it was incorporated in our Constitution. Every American, especially those serving in our Armed Forces, must be given the opportunity to exercise this right.

This bill, the Military Voting Rights Act of 1997, will guarantee the right of all Active Duty military personnel, merchant mariners, and their dependents to vote in Federal, State and local elections.

As you are aware, it is not uncommon for military personnel to be stationed at multiple bases, all in different States—sometimes countries—during their military careers, while maintaining the same domicile. When official duty requires a member of our military to serve away from their domicile, it should not be made more difficult for them to vote in State and local elections. When civilians are away from home at the time of an election, they can simply utilize an absentee ballot. If a member of our armed services is required to be away from home because of a service commitment, they too should be able to cast their vote by absentee ballot.

While recognizing that States must solely determine the residency requirements for purposes of voting in a particular State, it is also true that Congress has an obligation to ensure servicemembers are not be denied the right to vote. H.R. 699 would guarantee that extended absences incurred as a result of service to the Nation do not result in the loss of residency for voting purposes. Mr. Chairman, I believe that Lt. General Thad A. Wolfe, USAF (ret.), who testified today on behalf of The Military Coalition, said it best, " . . . [t]he 'Military Rights Act of 1997' ensures that those who protect the Nation's freedoms are not denied the right to exercise the very freedoms they protect."

PREPARED STATEMENT OF HON. LUIS V. GUTIERREZ

Thank you Mr. Chairman.

As we all know, the legislation we consider today has become embroiled in Texas politics. I believe that in the interest of servicepeople and all legitimate residents and voters in Texas we have to look at this specific bill separately from the court case currently taking place in Del Rio, TX.

Strictly put, this legislation simply clarifies the rights of servicemembers to vote in all Federal, State and local elections.

The Supreme Court in 1956 came to this same conclusion when it ruled that the Texas State Constitution could not exclude Active Duty military personnel from residency in Texas.

I think we all agree that no group of Americans, minorities, women or servicepeople should be prevented from exercising their democratic freedoms.

This bill illuminates for everybody this principle and for that reason I perceive no particular problem with this legislation.

Servicepeople should be afforded the same rights, nothing greater or nothing less, than all other citizens of this great country.

While I do not see an overriding need for this legislation, because the Supreme Court already ruled that States cannot prevent servicepeople from residency or voting in their local elections, I will support any bill that defends the democratic liberties the American people, all our people, are ensured under the Constitution.

With regards to the Del Rio case.

This I believe is a Texas State matter. This particular legislation will not impact the adjudication of the Del Rio case.

States have the duty to regulate and enforce across-the-board residency requirements.

The Government of Texas may not have been vigilant in ensuring that all voters were in fact residents of their locality.

Documentation from the case demonstrates that a number of voters in Del Rio had never even stepped foot in the county.

Texas should sort this out before more elections are called into question. The court should rule invalid all ballots cast by persons who do not qualify as residents of Texas.

It's that simple.

Thank you Mr. Chairman and all our witnesses for joining us to testify today.

PREPARED STATEMENT OF HON. FRANK MASCARA

Good morning Mr. Chairman. I will keep my remarks very brief.

I am concerned, like others on this committee, that our military personnel and their families be guaranteed the full and open opportunity and right to vote.

I am disturbed that problems have developed in some areas of the country and that the committee feels compelled to have to consider legislation that basically restates this basic right of citizenship.

Nevertheless, I can see how problems have developed with the surge in recent years of absentee ballots and new voters registered under the Motor Voter Act.

States I am sure are under a great deal of pressure from both parties to make sure their voter registration lists are sound and valid. In the process, unfortunately, it appears some have pushed a little too hard and ended up questioning the status of some voters based solely on their service in the military.

If I understand correctly, H.R. 669 would simply state that a State or locality could not deny a person the right to vote simply based on their compliance with military orders. That seems pretty obvious and a restatement of a basic right.

While I regret we have come to this point, I do want to point out that H.R. 699 does not alter the long standing right of the States to require a "bona fide residence." Military personnel will still have to meet that basic test.

While preserving the constitutional right of the States to set conditions of elections, I concur we have to say loud and clear that military personnels' right to vote must always be respected and honored.

I look forward to hearing this morning's testimony and yield back the balance of my time.

PREPARED STATEMENT OF HON. HELEN CHENOWETH

Mr. Chairman, I would just like to say how pleased I am that we are holding this hearing today. Members of our armed services fight and sacrifice to defend this Nation's democratic process and we must do everything within our power to ensure that they themselves have access. I would like to thank each of the panelists for participating today, and I look forward to working together toward this common goal.

PHILIP M. CRANE
MEMBER OF CONGRESS
8TH DISTRICT OF ILLINOIS

COMMITTEE ON
WAYS AND MEANS
(VICE CHAIRMAN)
SUBCOMMITTEE ON
TRADE
(CHAIRMAN)
SUBCOMMITTEE ON
HEALTH

JOINT COMMITTEE ON
TAXATION

Congress of the United States
House of Representatives
Washington, DC 20515-1308

OFFICES:
SUITE 233
CANNON BUILDING
WASHINGTON, DC 20515-1308
(202) 225-3711

1100 W. NORTHWEST HIGHWAY
PALATINE, IL 60067
(847) 358-9160

300 NORTH MILWAUKEE AVENUE
SUITE C
LAKE VILLA, IL 60046
(847) 265-9000

May 1, 1997

The Honorable Bob Stump
211 Cannon HOB
Washington, D.C. 20515

Dear Bob:

I have asked my assistant Louis Ingram to hand deliver this letter to you personally. It is that important!

Americans overseas serve their country in many ways. Some bear arms to increase World security. Others conduct the official business of our Nation. Others are businessmen contributing to our trade balance and creating American jobs.

These six million people represent an important community. They are, foremost, Americans, and they share with all others the right, indeed the responsibility, to participate in the political process. Our responsibility is to facilitate that participation.

I am proposing an "Overseas Voting Act of 1997" the main thrust of which would create a simple voice-activated, automated phone service in our own CAO office to help American voters overseas obtain the necessary forms for registration and ballots.

The enclosed draft is short and sweet. I am advised that it will be referred to Veterans Affairs(Sec 5), National Security (Sec 4), International Relations (Sec 3), and House Oversight (Secs 2 & 6). Section 5 seems to fall within the jurisdiction of your Benefits Subcommittee.

Bob, join me as an original sponsor of this legislation, and urge Lane, Jack and Bob Filner to come on board. Of course, I have written them separately. Phone Louis for more information and to become a sponsor. Many thanks!

Sincerely,

Phil

Philip M. Crane, M.C.

PMC/li

PRINTED ON RECYCLED PAPER

Statement of Hon. Henry Bonilla

Mr. Chairman, members of the committee. Thank you for the opportunity to testify on H.R. 699, the Military Voting Rights Act. I know that the members of our armed services join me in expressing our appreciation to the committee for holding this hearing focusing attention on the military's constitutional right to vote.

As school kids all of us began the day reciting these words: One nation, under God, indivisible, with liberty and justice for all. The Pledge of Allegiance is more than a collection of words, it is the definition of America. America is about freedom, America is about justice and America is about liberty. America is a symbol of liberty and every port of entry, from New York to Honolulu, is a gateway to freedom.

Therefore, it is very ironic that one of these gateways, Del Rio, Texas, has recently experienced an assault on the most fundamental of constitutional liberties, the right to vote. A suit was filed which would deny our military the right to vote in state and local elections.

Del Rio is the home of Laughlin Air Force Base and is one of the most patriotic communities in the nation. When the Base Closure Commission inspected Laughlin more than 20,000 Del Rioans, about 2/3 of the town's population, lined the streets to express their support for Laughlin and the Air Force. Therefore, it is no surprise that this suit was filed by an outside group with a long history of agitation and disregard for justice, Texas Rural Legal Aid (TRLA). Outragously, TRLA is a Legal Services Corporation (LSC) grant recipient and it has attempted to have taxpayer's foot the bill for their assault on the constitution.

I am glad to report that we stopped their effort in its tracks and have introduced legislation, H.R. 699, the Military Voting Rights Act. This legislation would prevent any future threats to military voting rights by guaranteeing the right of the military to vote in state and local elections. We need this guarantee because the threat is real. If we fail to act we run the risk of further suits in other states threatening our military's constitutional rights.

This importance of this legislation crosses all party lines. There is bipartisan support for this legislation. We have over 50 cosponsors, including conservatives like ourselves and liberals like Bobby Rush and Sam Gejdenson. Quite simply, there is no valid reason to oppose this bill.

800 military voters in Val Verde County were sent questionnaires by the plaintiff which represented an enormous invasion of privacy. Colonel Brown will share his personal perspective on this shortly. Rather, than provide you with my own analysis of this outrage let me share with you the comments of the Chairman of the Joint Chiefs of Staff, General Shalikashvili. General Shalikashvili stated that: "I find it very objectionable, first of all, and I have been very concerned about this issue.....I have discussed this with all the Chiefs, and all of us have written a letter to Attorney General Reno asking for her assistance in this matter, so we are greatly concerned about it." Let me also read to you some of the questions so you can draw your own conclusions.

What is the complete address of every place where your spouse has lived since she/he last lived in Val Verde County?

What is the complete address of the place where your spouse lived on November 5, 1996? Did she/he usually sleep there at night?

List the names and addresses of all persons who were living in Val Verde County on November 5, 1996 to whom you and your spouse are related and indicate the nature of the relationship?

Are you currently or in the past have you been a member of the Parent Teacher Association of the school where your children have attended school? If yes, for each membership, state the name of the school at which your spouse is or has been a member of a parent teacher organization, the dates of such membership, whether you were ever an officer of the organization and the name of your children attending such school?

What is the address to which your billing statements are sent?

Do you or your spouse have any credit cards? If yes, for each card, describe the type and state, to whom the card is issued, the address to which the bill is currently sent and the address to which the bill was sent in November of 1996?

There were 23 pages of these questions to respond to. Our military must never again be subjected to such an indignity. Our military must never again be treated like second class citizens and cases such as this must never again be allowed to see the light of day.

The Val Verde case is full of ironies. The attack on the military's constitutional rights occured in one of our nation's most patriotic towns. The plaintiff has attempted to use the Voting Rights Act to limit the right to vote. Military voters, who are disproportionately minority, are seeing their voting rights threatened in the name of protecting minority voting rights. And finally and most tragically, injustice is occuring in the name of justice. Our legislation would put a stop to this double talk.

In conclusion, my testimony can be summarized in two words, justice and sacrifice. Our military have made tremendous sacrifices to preserve the freedom all Americans enjoy. The least we can do is assure them of justice when their constitutional rights are attacked. H.R. 699 lets us meet that commitment. Thank you for your time.

tatement of Col. Bruce A. Brown, U.S. Air Force, Hickam Air Force Base, Hawaii

Mister Chairman, members of the House Veterans Affairs Committee, thank you for this opportunity to express my personal opinion on what I truly believe is an affront to my rights as an American citizen -- and that's the basic right to vote in my home of record.

I am a career Air Force officer and pilot who has had the opportunity and good fortune to serve our country for more than 23 years. I now come before you today to speak to you as an American citizen who is a member of your armed forces.

In the fall of 1996, I did what I considered my civic duty and voted in the November election. I have done this on a regular basis since I entered the Air Force in 1973 for several reasons. First, I consider it imperative that all citizens exercise their right to vote -- a civic duty. Second, to express my opinion at the ballot box on the performance of our government. And lastly, out of reverence of those who have gone before us and made the ultimate sacrifice to give us this right.

In January, I received a court ordered document -- a questionnaire -- which I found to be even more intrusive than a security clearance investigation. A 24-page document which ordered me to reveal my credit cards, bank accounts, even where my wife was sleeping on certain nights.

I resisted filling out this document, but on advice of my attorney, I spent the hours it took to complete this document. The whole purpose of the document was to challenge my residency of Val Verde County, Texas, question my citizenship, and the right to vote on all issues as other Americans do. I could not remain silent.

For the first time in my career, I wrote my congressman -- Congressman Bonilla of Texas. It is on his invitation that I appear before you today.

Since I entered the Air Force in 1973, I have been permanently stationed at 9 different installations -- California, Louisiana, Texas, Michigan, Nebraska, North Dakota, Washington D.C., Belgium, and now Hawaii, where I command the 15th Air Base Wing at Hickam Air Force Base.

This summer will be the first time in my 23-year career to be assigned to the same area twice ... my tenth assignment, to the Pentagon in August. And although raised in Georgia, I have returned to Georgia for no more than a week at a time to visit family in any year ... many times not returning for several years.

After moving to Texas, I made the decision that this was a place I could live and grow upon retirement. I love Texas and while not a native son, I've always been proud to claim Texas as my home of record.

I don't own land in Del Rio, Texas ... but I have a Texas Will.

I have not visited Texas but a few times in the last 20 years ... but I still bank there.

I don't own a home or have relatives in Val Verde County ... but I vote there.

I don't drive a car in Texas ... but my car insurance is still from there.

Even my driver's license is from there.

Those ownership, family or visitation questions asked in the questionnaire should not negate the fact.I am still a legal resident of Texas and Val Verde County, and am entitled to the same rights and privileges of those citizens who haven't felt a calling to serve their country in uniform ...

... who don't know what it's like to pack up all their belongings and move every two or three years.

... who don't know what it is like to be separated from family for extended periods of time.

... who don't know the hardships families must bear to support members of our Armed Forces.

Mister Chairman, members of this committee, I come today as an American citizen and military officer. First, I am worried that to limit the vote of members of the Armed Forces is to place them in a category of "second class" citizens. Second, if we allow members of the Armed Forces to be denied that right to vote ... who is next? If my vote isn't allowed to count in "all" elections, then my right to vote no longer exists.

Thank you for this opportunity to speak to speak to you as an American and concerned Texas citizen.

THE MILITARY COALITION

201 North Washington Street
Alexandria, Virginia 22314
(703) 838-8113

STATEMENT OF THE MILITARY COALITION

on

THE MILITARY VOTING RIGHTS ACT OF 1997

provided to the

HOUSE VETERANS AFFAIRS COMMITTEE

Presented by

Lieutenant General Thad A. Wolfe, USAF (Ret)
Air Force Association
Chairman, Air Force Association Veterans and Retiree Council

June 4, 1997

The Military Coalition
Testimony on the "Military Voting Rights Act of 1997"

MISTER CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE:

On behalf of The Military Coalition, I would like to express appreciation to the Chairman and distinguished members of the House Veterans' Affairs Committee for holding this important hearing. This testimony provides the collective views of the following military and veterans organizations which represent approximately 5 million members of the seven uniformed services, officer and enlisted, active, reserve, veterans and retired plus their families and survivors.

- Air Force Association
- Army Aviation Association of America
- Association of the United States Army
- Association of Military Surgeons of the United States
- Chief Warrant Officer and Warrant Officer Association of the U.S. Coast Guard
- Commissioned Officers Association of the U.S. Public Health Service, Inc.
- Enlisted Association of the National Guard of the United States
- Fleet Reserve Association
- Jewish War Veterans of the U.S.A.
- Marine Corps League
- Marine Corps Reserve Officers Association
- The Military Chaplains Association of the U.S.A.
- National Guard Association of the U.S.
- National Military Family Association
- National Order of Battlefield Commissions
- Naval Enlisted Reserve Association
- Navy League of the United States
- Reserve Officers Association
- The Retired Enlisted Association
- The Retired Officers Association
- United Armed Forces Association
- United States Army Warrant Officers Association
- United States Coast Guard Chief Petty Officers Association
- Veterans of Foreign Wars

The Military Coalition does not receive any federal grants or contracts from the federal government.

The right of active duty military personnel and their dependents to vote in all federal, state and local elections needs to again be re-emphasized to state and local election officials. Recent problems in Texas have again reminded us that the right to vote must be fought for time and time again. This legislation, once enacted, will help correct this inequity.

The mobile military lifestyle discourages military families from changing their legal domicile every time they move on government orders. Most families retain the same legal domicile for the vast majority of the military member's career. A case in point are those military personnel and their families who are or have been stationed at Laughlin AFB, TX. Legal domicile is determined by the individual State and once granted confers the right to vote.

In The Military Coalition's view, the question seems to be: "Do state and local governments have the right to impose additional, potentially extreme, qualifying rules for service members whose official duties require them to serve away from their legal residence for years at a time?" We believe the obvious answer is "No!" The Military Coalition affirms the unequivocal right of all service members and their families to vote by absentee ballot without being subjected to additional, intrusive requirements..

In 1952 President Truman sent a letter to Congress which read:

"About 2,500,000 men and women in the Armed Services are of voting age at the present time. Many of those in uniform are serving overseas, or in parts of the country distant from their homes. They are unable to return to their states either to register or to vote. Yet these men and women, who are serving their country and in many cases risking their lives, deserve above all others to exercise the right to vote in this election year. At a time when these young people are defending our country and its free institutions, the least we at home can do is make sure that they are able to enjoy the rights they are asked to preserve." President Truman's words are still important to today's men and women in uniform.

The "Military Voting Rights Act of 1997" amends the "Uniformed and Overseas Absentee Voting Act" to make the right of military personnel and their families to vote in all federal, state and local elections absolutely clear. This amendment is consistent with the way the law has continually been interpreted by state election officials.

Additionally, the "Military Voting Rights Act of 1997" amends the "Soldiers and Sailors' Civil Relief Act of 1940" to include voting rights protections to our nation's military forces. This amendment guarantees that absences incurred as a result of service to our country do not result in the loss of the right to vote. Currently the "Soldiers and Sailors' Civil Relief Act of 1940" prevents members from changing their address altogether.

The Military Coalition believes that the "Military Voting Rights Act of 1997" ensures that those who protect the nation's freedoms are not denied the right to exercise the very freedoms they protect.

Respectfully Submitted,

The Military Coalition

ASSOCIATION OF THE UNITED STATES ARMY

2425 WILSON BOULEVARD, ARLINGTON, VIRGINIA 22201-3385 (703) 841-4300

TESTIMONY

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

OFFERED BY

JOHN MOLINO
DIRECTOR OF GOVERNMENT AFFAIRS
ASSOCIATION OF THE UNITED STATES ARMY

ON

H.R. 699, MILITARY VOTING RIGHTS ACT OF 1997

JUNE 5, 1997

ASSOCIATION OF THE UNITED STATES ARMY

2425 WILSON BOULEVARD, ARLINGTON, VIRGINIA 22201-3385 (703) 841-4300

John Molino

John Molino is the Director of Government Affairs for the Association of the United States Army (AUSA). He has held this position since February 1997.

Prior to that, Mr. Molino served as a Legislative Assistant to Senator Dan Coats of Indiana and as the Assistant Director of Government and Public Affairs at AUSA. This came at the conclusion of his active duty Army career where his assignments included duty on the staffs of the Secretary of the Army, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff.

The Association of the United States Army is proud to have been invited to testify in support of what, in truth, should be unnecessary legislation. It should send a frightening message to the American people when individuals are sufficiently arrogant to meddle with a right and responsibility as fundamental as the right to vote. The intent of the existing law is clear. It is unfortunate that the need has arisen to codify that which is so obvious.

The good news in this otherwise disturbing story is that help is on the way. H.R. 699, and its companion bill in the Senate, clarifies that military members and their family members have the right to vote in local as well as national elections.

It is surprising this situation developed in Texas. Texas has long been recognized for the pride and fierce loyalty of its citizens. Whether in Texas or halfway around the world Texans are true to Texas. Some may charge that members of the military who claim to be Texans have no real interest in local issues. This occurs everywhere. In every state of the Union, there are people living within communities who have no interest in local issues. Is there a suggestion that they be disenfranchised as well?

There was a regrettable time in our nation's history when we withheld the vote from men and women because of the color of their skin. All good men and women should bristle at the thought that this could happen again because of the color of their uniform.

I would argue that it is easier than ever before in today's world to remain engaged and aware of issues at all levels of government. While there remain mothers, fathers, aunts, and uncles who mail local newspapers to their relatives serving away from home, we now see federal, state, and local home pages and web sites on the internet reaching out to bring a bit of home to people anywhere on the planet.

Another common charge is that military members select their state of residence based solely on the tax laws of specific states. I would suggest, only half in jest that this is a logical consequence of having a better educated military. In truth, the numbers do not support the theory. Most are residents of the states either where they resided when they came on active duty, where they are currently assigned, or where they plan to reside when they leave the military. Those motivated solely by the tax laws are, I submit, so few as to be insignificant.

Many thanks to Mr. Bonilla and his cosponsors and those who lead the initiative in the Senate. On behalf of the more than 110,000 members of the Association of the United States Army, I urge you to put a stop to this dangerous foolishness once and forever. Protect the right to vote of those who daily protect every right we, as Americans, hold dear.

Non Commissioned Officers Association of the United States of America

225 N. Washington Street • Alexandria, Virginia 22314 • Telephone (703) 549-0311

STATEMENT OF

LARRY D. RHEA

DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS

BEFORE THE

COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 699

THE MILITARY VOTING RIGHTS ACT OF 1997

JUNE 4, 1997

The Non Commissioned Officers Association of the USA (NCOA) is sincerely grateful for the opportunity to testify in support of H.R. 699, The Military Voting Rights Act of 1997. Mr. Chairman, the Association thanks you for including NCOA among the witnesses invited to this hearing. The Association also extends our salutes to Representatives Henry Bonilla and Sam Johnson for introducing this legislation to protect the voting rights of the Nation's military men and women.

NCOA wholeheartedly and enthusiastically supports H.R. 699. The Association urges the Distinguished Chairman and members of the House Committee on Veterans Affairs to act favorably on the bill and to do so in an expedient manner. Since H.R. 699 has been sequentially referred to the Committee on House Oversight and the House Committee on the Judiciary, NCOA has also requested that the Chairman and members of those Committees act favorably and quickly on this legislation. In this Association's view, there is nothing controversial in H.R. 699 that would preclude its immediate consideration and passage.

In all honesty Mr. Chairman, NCOA is disheartened that legislation to guarantee and protect the voting rights of military men and women and their families is even necessary. When put in context with one other event, the fact that we are here today discussing H.R. 699 should be alarming to all Americans. We are here today because a legal challenge was made against those who defend our freedom and their right to cast an absentee ballot in their official home of residency. On the other hand in the past two years, the Immigration and Naturalization Service lowered the bar to US citizenship so far that some estimates conclude as many as one-forth of those granted US Citizenship had a disqualifying criminal background. NCOA is in no way making a statement either for or against immigration laws. The irony between these two events is nonetheless striking and disturbing to this Association.

Individuals who today volunteer to serve in the Armed Forces do so freely and that is clearly understood by this Association. NCOA also wants to point out though that they give up many other freedoms while serving the Nation and military members accept and

abide by those restrictions. They understand the need for limits on their political activities. They do not understand though why the one form of political free speech that they retain while in military service – the right to vote – has been challenged. If that singular form of political free speech by military members is threatened, then all forms of political free speech by all Americans is placed in jeopardy.

As the Committee pursues passage of H.R. 699, NCOA wants to bring to your attention one other situation that is germane to this legislation. Some States and localities, Mr. Chairman, do not permit registered voters to apply for an absentee ballot more than 30-days prior to a scheduled election. As a consequence, as many as 20,000 sailors of the submarine service are possibly being denied the right to vote in Federal, State and local elections. While deployed on patrol, submerged for 90-days on each deployment, members of a submarine crew have no means of communication with their families and loved ones, let alone election officials. They have no way to send or receive mail or to apply for, receive and return an absentee ballot. Therefore, NCOA asks the Committee to incorporate language in H.R. 699 that would guarantee the right to vote in this extenuating situation that is unique among the military services. The current language of H.R. 699 would not solve this problem.

In conclusion, NCOA again states our strong support for H.R. 699 and urges it expedient and favorable consideration. The Association also asks that language be inserted in the bill to guarantee the right to vote for the sailors described above.

Thank you.

STATEMENT OF
BOB MANHAN
ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO
THE MILITARY VOTING RIGHTS ACT OF 1997

WASHINGTON, DC **JUNE 4, 1997**

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

It is my privilege and pleasure to appear here this morning as representative of the 2.1 million members of the Veterans of Foreign Wars. Thank you for holding such a timely hearing on a most important and fundamental American principle, the right of a citizen to vote by absentee ballot in a local election.

The VFW supports bill H.R. 699 introduced on February 12, 1997, by Mr. Bonilla, representing the 23rd district in Texas, which runs along the U.S./Mexico border from Laredo in the south to El Paso in the north; and Mr. Sam Johnson whose 3rd district is located primarily in the North Dallas area. The short title of this act is cited as the "Military Voting Rights Act of 1997."

H.R. 699 was submitted in direct response to a civil suit filed in mid-December 1996 by the Texas Rural Legal Aid (TRLA) which is funded in part by federal money against Val Verde County, Texas, alleging that some 800 military absentee ballots should be ruled invalid after being counted as part of a November local election. In sum, TRLA's position is that members of our Armed Forces lose their right to vote in local elections if they vote by absentee ballot. The public offices involved were the local sheriff and county commissioner.

This bill does two specific things to preclude a similar situation from occurring again in any state or local election to include any U.S. territory, possession, the District of Columbia, or a political subdivision of any of these cited entities. They are:

--to guarantee residency for purposes of voting to "a person who is absent from a State in compliance with military or Naval orders," and

--make the states responsible to guarantee military voting rights to absent military servicemembers by requiring them to provide all absentee registration and ballot materials to those who request the information 30 days prior to election.

As previously stated, the VFW supports this piece of legislation. It will ensure that military personnel who are on active duty in the service of our nation cannot lose their right to vote in a state or local election solely because of their service-connected absence. To take any other position is neither proper nor equitable in light of the fact that all American citizens have a Constitutional right to vote. This right is further amplified for military people in the "Soldiers' and Sailors' Civil Relief Act of 1940."

In closing, the VFW asks that this committee favorably vote on H.R. 699 as soon as possible.

Thank you for accepting the VFW's written statement and my oral testimony as part of this formal hearing. I am prepared to answer questions regarding the VFW's position on H.R. 699.

HEARING
BEFORE
HOUSE VETERANS' AFFAIRS COMMITTEE
ON
H. R. 699, the Military Voting Rights Act of 1997

Johnny H. Killian
Senior Specialist
American Constitutional Law
Congressional Research Service

SUMMARY

I appear today at the request of the Committee to discuss any constitutional issues that may be raised by H. R. 699, 105th Congress, the Military Voting Rights Act of 1997. I am a Senior Specialist in American Constitutional Law at the Congressional Research Service. As such, I must emphasize that it is not my place or function to discuss or to advocate policy issues; my responsibility is only to address any constitutional issues that may arise or may be raised by this bill.

In brief, the bill is designed to extend to persons absent from any State in compliance with military or naval orders the same rights to register to vote and to vote absentee with respect to state and local elections as is now enjoyed by such personnel with regard to federal elections under the Uniformed and Overseas Citizens Absentee Voting Act. Further, the bill establishes a rule in any State for purposes of voting residence for federal, state, and local offices that the absence of a person from the State in compliance with military or naval orders will not result in that person's loss of voting residence in the State.

No constitutional objection is apparent with regard to either section of the bill. Indeed, Congress appears to have a settled power, in at least two respects, to legislate to protect personnel absent from a State of residence or even from the United States from the adverse consequences they might otherwise suffer from their service in the Country's military forces.

TESTIMONY

Congress was delegated in § 8 of Article I of the Constitution several powers dealing with the military, including the authority in cls. 12 and 13 to raise and support armies and to provide and maintain a navy. At the core, these powers concern the provision for and the equipping and funding of the military forces, but it has long been recognized that, when coupled with the authority conferred by the "necessary and proper clause," the authority is much broader, extending to legislation that ameliorates the dislocation occasioned by military service and attends to those matters that would harm morale.

The first national, comprehensive soldiers' relief act was that of 1918, 40 Stat. 440, followed by the act of 1940, 54 Stat. 1178, as amended in 1942, 56 Stat. 769, and provisions of the Selective Service Act of 1948. 62 Stat. 604. These laws built on state laws enacted during the Civil War era. They generally protected absent military personnel from the application of state laws dealing with tax liabilities and with creditor collections of debt. See *Conroy v. Aniskoff*, 507 U.S. 511 (1993); *Boone v. Lightner*, 319 U.S. 561 (1943); *Ebert v. Poston*, 266 U.S. 548 (1925). Cf. *King v. St. Vincent's Hospital*, 502 U.S. 215 (1991)(under the Veterans' Reemployment Rights Act).

Congress has, since World War II, addressed the issues of registration to vote and absentee balloting by persons absent from their homes in military service. The primary laws are the Federal Voting Assistance Act of 1955, 69 Stat. 584, which encouraged all States to provide for absentee registration and voting procedures for military voters, later extended to their spouses and dependents and then to all United States citizens residing abroad. These laws were followed by the Overseas Citizens Voting Rights Act of 1975, 89 Stat. 1142, which attempted to ensure the right to vote in federal elections for all citizens residing overseas, even if they do not maintain a legal domicile in the United States. This law was expanded and procedures improved in the Uniformed and

Overseas Citizens Absentee Voting Act of 1986, 100 Stat. 924, otherwise known as the Federal Post Card Application Law.

One need not explore in depth these laws to appreciate that they greatly alter and modify state laws with respect to the areas they reach. Nor is there any doubt of the constitutionality of these measures. In *Dameron v. Brodhead*, 345 U.S. 322, 324-325 (1953), the Court rejected a constitutional attack on a congressional provision, of the Soldiers" and Sailors' Civil Relief Act, that barred a State from imposing a personal property tax on the property of a military officer temporarily located within the borders of a State, even though the State of his domicile had not taxed the property. Pointing to the cited powers to maintain a military and to the "necessary and proper" clause, the Court squarely held valid the congressional enactment.

I cannot perceive any difference of merit between the various privileges and immunities conferred by the various relief acts and the protection of the right to vote by persons the United States requires to be absent from their domiciles. Federal law already protects registration and voting in federal elections. An extension to state and local elections would seem to be a rather limited expansion.

Constitutional authority for this legislation would appear to rest on two bases.

First, the power to maintain and support military forces encompasses, as the history of congressional enactments and the judicial precedents show, the authority to protect the rights, privileges, and immunities of military personnel in the civil society from which the men and women in the military have been, perhaps temporarily, perhaps for a much longer period, withdrawn. The right to vote certainly would seem to be as fundamental to persons in the military as are the various protections from legal actions and job losses that the laws now assure.

To be sure, there may be a somewhat greater interest in Congress in voting in federal elections than in state and local elections. For example, the Constitution, Art. I, § 4, cl. 1, gives to the States the power to prescribe the times, places, and manner of holding elections for Senators and Representatives, but it reserves to Congress the power to alter those regulations. On the other

hand, under Art. I, § 2, cl. 1, and the 17th Amendment, the qualifications of voters for electing Senators and Representatives are to be those qualifications that exist in each State for voters for the most numerous branch of the legislature in each State. The federal laws in existence and proposed by this cut across matters that relate to qualifications, in terms of residence or domicile, and to times, places, and manner, such as registration and absentee voting.

Second, a separate authorization supports congressional action. In § 5 of the 14th Amendment, Congress is given the power to enforce, by appropriate legislation, the guarantees of the Amendment. The guarantee to look to here is the proscription of the denial of the equal protection of the laws. It is now settled that, while the basic right to vote is not conferred by the United States Constitution, when a State prescribes qualifications it may not, without violating the equal protection clause, invidiously distinguish between similarly situated persons. Thus, in *Carrington v. Rash*, 380 U.S. 89 (1965), the Court held unconstitutional Texas constitutional and statutory provisions that limited the right of any military person to vote to the county in which he or she resided upon entering the military, thus creating an irrebuttable presumption that members of the armed forces could not vote in Texas. See also *Evans v. Cornman*, 398 U.S. 419 (1970)(voiding a Maryland policy denying the residents of federal enclaves the right to establish residence in the State for voting purposes).

The first part of the bill, relating to residency or domicile for voting purposes, is a paradigmatic use of the 14th Amendment enforcement power. The second part, relating to absentee registration and voting, is somewhat more removed, but Congress could very well perceive that a State was placing unnecessary barriers in front of the right to exercise the right to vote of military personnel.

The Supreme Court has before it for decision sometime this month a case testing Congress' power to enforce the 14th Amendment, *Town of Boerne v. Flores*, 95-2074, *reviewing* 73 F.3d 1352 (5th Cir. 1996), but that case involves the exercise of the enforcement power in disagreement with a Supreme Court decision, not in agreement as would be the instance with this bill. Therefore, whatever the result in *Boerne*, it would have no impact here.

CONCLUSION

Congress has two settled constitutional grounds on which to base the enactment of H.R. 699. Its power to maintain and support the military, combined with its "necessary and proper" power, gives it authority to legislate to protect and enhance the well-being of the men and women who serve in the military. Moreover, its power to enforce the 14th Amendment gives it authority to legislate to set aside state policies and practices that invidiously discriminate against military personnel.

If Congress should analyze the factual situations existing in the States and determine that legislation is required, the practice and the judicial precedents point in the direction of the sustaining of any such legislation that may be challenged.

FEDERAL VOTING ASSISTANCE PROGRAM
OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1155

TESTIMONY OF PHYLLIS J. TAYLOR
before the
Committee on Veterans' Affairs
House of Representatives
June 4, 1997

Mr. Chairman and members of the committee, I am Phyllis J. Taylor, Director of the Federal Voting Assistance Program. I have been with the Program for seventeen years. I appreciate the opportunity to discuss the Federal Voting Assistance Program (FVAP) and to present my views on the proposed legislation, H.R. 699, the Military Voting Rights Act of 1997.

BACKGROUND

Acting pursuant to the *Uniformed and Overseas Citizens Absentee Voting Act,* the President of the United States on June 8, 1988 (in Executive Order 12642) designated the Secretary of Defense to coordinate and facilitate all actions required to discharge Federal responsibilities under the *Act.* The Secretary of Defense has in turn assigned his authority to the Director of the Federal Voting Assistance Program.

The *Uniformed and Overseas Citizens Absentee Voting Act* covers the voting rights of more than six million U.S. citizens who serve in the military, other Uniformed Services, and merchant marine, their spouses and dependents, and all U.S. citizens overseas.

VOTING PARTICIPATION

In 1996, voting by Uniformed and overseas citizens represented 3.1% of the total votes cast in the general election.

Uniformed Services

Results of the FVAP 1996 Post-Election Survey indicate that participation by Uniformed Services voters remains high at 64%, compared to 49% for the general voting age population.

In 1996, 87% of the Uniformed Service personnel vote was cast by absentee ballot. Of the Uniformed Services personnel who did not vote, 11% said the primary reason was they did not know how to get a ballot. Another 14% said they had no candidate preference while 6% cited a lack of familiarity with the candidates as their primary reason for not voting. Only 10% said they had no interest in the election.

Federal Employees Overseas

Voting by overseas Federal employees was 68% in 1996.

U.S. Citizens Not Affiliated with the Government

Voting by U.S. citizens overseas not affiliated with the Federal government increased from 31% in 1992 to 37% in 1996. This is a significant rate of participation considering the international geographic location and distribution channels are primarily on a voluntary basis. The U.S. Department of State assists the Department of Defense and overseas voter populations at its Embassies and Consulates abroad.

Of those overseas citizens who did not vote, 22% said the primary reason they did not vote was they did not know how to get an absentee ballot. Another 16% said they did not know they were eligible to vote. Eight percent had no candidate preference or were not familiar with the candidates, while 6% said they did not know their state or territory of voting residence.

1994 Participation

In 1994, Uniformed Services participation in elections was 42% and exceeded the national average of 39%. In 1990, Uniformed Services participation was 40%.

Federal Voting Assistance Program

The Federal Voting Assistance Program, through consultations with states, the territories and the appropriate departments and agencies of the Federal government, and through the dissemination of information to potential absentee voters, has sought to assist Uniformed and civilian citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act,* who seek to vote absentee in elections for Federal office. Pursuant to the provisions of this *Act,* the Program obtains information on absentee registration and voting procedures in each state and territory and every two years publishes it in a handbook entitled the *Voting Assistance Guide*, which is disseminated to state and local government officials, military installations, Embassies and Consulates and citizens around the world.

The Program also reviews state and territory procedures to determine if they impose any impediment to citizens seeking to vote absentee. When problems are discovered, the Program frequently consults with the states and territories and recommends changes that might be made to promote greater participation in elections. On occasion, the Program has initiated legal action through the Department of Justice to protect the right to vote guaranteed by the *Act.* The Program has worked with the United States Postmaster General and the Military Postal Service to assure the availability of expedited mail delivery of absentee balloting material. The Program also acts as an ombudsman for both citizens and state and local government officials when problems arise.

INITIATIVES

The *Uniformed and Overseas Citizens Absentee Voting Act* recommends several legislative initiatives with the states and territories to simplify and improve the absentee voting process for citizens covered by the *Act*. My office has pursued these initiatives and the following summarizes the status of these activities. A list of states and territories that have adopted these initiatives is available as an Attachment.

The Need for 45 Day Ballot Transit Time

The most persistent problem which continues to face Uniformed and overseas voters is the extremely short period of time these voters have to receive, vote, and return their absentee voted ballots in order to be counted. While electronic transmission of election materials offers an alternative to inadequate ballot transit time in emergency situations, the fact is that insufficient ballot transit time through the mail remains the primary obstacle to ensuring timely delivery of absentee ballots to all who request them.

Our post-election surveys and Postal Service statistics indicate that a 45 day transit time is needed for absentee ballots sent through international mail or the military APO/ FPO (overseas) post offices. This round trip transit time is especially necessary because of the remote location of many Uniformed personnel and overseas citizens such as sailors and marines aboard ship, airmen and sailors at isolated tracking sites around the world, as well as Department of State personnel and citizen employees of American multinational corporations in remote areas. This is why it is necessary a minimum of 45 days transit time frame for absentee ballots is allowed.

Use of One Federal Post Card Application (FPCA) for All Elections in a Calendar Year

Many citizens are confused concerning the requirement to submit a separate request for a ballot for each election and, in 1996, many were disenfranchised for this reason alone. They thought that since they requested and received a ballot for the primary election, they would automatically receive a ballot for the general election. We recommend that the states and territories accept one absentee ballot request for all elections during a calendar year.

Notary Requirement

The notary requirement creates problems for individuals living overseas where such services are difficult and expensive, if not impossible, to obtain. Some citizens have paid $50 to obtain notarial services. Some small military installations may have no commissioned officer assigned. We recommend removal of the notary requirement for all absentee balloting materials.

"Not Earlier Than" Deadline

Some states have a specified time during which requests for absentee ballots may be received by the election officials that is "not earlier than" a certain number of days before the election. The "not earlier than" limitation causes a problem for Uniformed personnel or other citizens overseas. Frequently, programs encouraging voter registration and participation are held at various times during an election year. During these sessions, citizens are encouraged to submit

an application for registration and/or request for absentee ballot. On other occasions, a candidate may address a large gathering of citizens to encourage them to register and vote. Citizens who are motivated to act as a result of these sessions could have their applications rejected because they were received too early or too late by local election officials. This can be very frustrating, particularly to first time voters. We urge that the "not earlier than" dates for ballot requests be eliminated.

"Not Later Than" Deadline

Because Uniformed Services personnel and overseas citizens are primarily voting absentee, the "not later than" requirement for return of the voted ballot may disenfranchise a citizen. For this reason, we urge that the "not later than" dates for ballot requests be eliminated.

Expand Use of Federal Write-In Absentee Ballot

Currently in most states, the Federal Write-In Absentee Ballot (FWAB) may be used only in the general election. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership.

By expanding its use to include special, primary and runoff elections, citizens would not be disenfranchised because state regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the Federal Write-In Absentee Ballot in these elections would reduce the need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During the 1996 primaries, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB transmission envelope as a request for registration simultaneously with the submission of the FWAB would further simplify the process, improve on transit time and help ensure enfranchisement. It should be noted that the information requested on the FWAB transmission envelope is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB transmission envelope and FWAB be accepted simultaneously as a registration form and ballot by the state or territory for general election and Federal offices if:

(1)the information submitted complied with the state's or territory's registration requirements;

(2)the citizen is otherwise eligible to vote absentee in the jurisdiction where the request is submitted;

(3)the request is received by the appropriate local election official not less than 30 days before the election.

The adoption of this initiative would save the state or territory money, alleviate administrative responsibilities on the part of the local election official and further streamline the absentee voting process.

Late Registration Procedures

We recommend that the states and territories allow citizens recently separated from the Uniformed Services or overseas employment, and their family members, to be able to register late or be exempt from registration. Many members of the Uniformed Services and overseas citizens go through a transition period when they first leave the Uniformed Services or overseas employment and may reside in a state or territory just prior to an election and this time frame does not meet the state's or territory's normal residency requirements. Often, the date of discharge or termination of overseas employment and a state's or territory's registration requirement combine to disenfranchise a discharged Uniformed or overseas citizen returning home after employment abroad. Special procedures to allow these citizens to register and vote would solve this problem.

State Special Write-In Absentee Ballot

We also recommend the states and territories provide a state special write-in absentee ballot for all elections. The purpose of the state special write-in absentee ballot is to provide a method for voting by Uniformed personnel and other citizens overseas who, due to military contingencies or special circumstances such as those faced by submariners, Peace Corps volunteers, missionaries or others in remote areas, will be out of communication for extended periods of time and unable to receive the regular ballot from the state or territory in the normal time frame. A citizen could request a state special write-in absentee ballot 90 days in advance and write in the names of the candidates or party preferences. The citizen knows in advance that he or she will not be able to receive, vote, and return the regular ballot from the state or territory in time to be counted.

This state special write-in absentee ballot should not be confused with the Federal Write-In Absentee Ballot (FWAB) that is prepositioned at Embassies and Consulates, military installations, overseas organizations and corporations. In comparison, the FWAB is generally only available to Uniformed personnel stationed overseas and overseas citizens who have already applied for a regular ballot from the state or territory. They do not know in advance that they need the FWAB. However, if the regular ballot from the state or territory does not arrive in sufficient time for the citizen to return the voted ballot and meet the state's or territory's deadline, these citizens may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state special write-in absentee ballot usually provides a "full" slate of offices to be voted upon including Federal, state and local offices. On the other hand, the FWAB generally allows voting for Federal offices. The 1995 revised FWAB was designed to accommodate its use beyond the general election and Federal offices only.

Electronic Transmission of Election Materials

Since the 1990 election, faxing has proven to be a valuable alternative method for Uniformed personnel and overseas citizens serving their country who may have otherwise been disenfranchised. More recently, the states and territories made provisions for Uniformed Service personnel deployed to Operation Joint Endeavor in the Balkans to utilize the FVAP's Electronic Transmission Service for the faxing of election materials. This initiative has helped ensure these citizens were not disenfranchised by allowing them to cast a ballot when they would not otherwise have been able to vote due to time , location and military constraints.

Throughout an election year cycle, various circumstances exist that require the need for this alternative procedure in order for citizens to vote. The basic concept of electronic transmission of election materials is to secure high-speed delivery of election materials to and from the citizen and local election officials. State and territory support in developing the acceptance of electronic transmission for all aspects of the process, with proper controls, would cut the ballot transit time at least in half. This would reduce the transit time frame obstacle to voting absentee and allow local election officials more administrative flexibility in preparing election materials.

We ask that the states and territories consider use of modern technology in the absentee voting process by enacting legislation to allow for the faxing of the FPCA for registration and absentee ballot; faxing of the blank ballot to the citizen; and faxing of the voted ballot to the local election official where circumstances would otherwise disenfranchise a citizen.

Enfranchise Citizens Who Have Never Resided in the U.S.

There are many U.S. citizens who have never resided in a state or territory and under current law are not entitled to vote. These are usually first or second generation citizens who have resided abroad with their parents and are subject to U.S. income tax and all other requirements of citizens. Except for the fact that they have never resided in a state or territory, they would be eligible to vote in elections for Federal office. Some local election officials make exceptions and allow these citizens to vote. We recommend these citizens be allowed to vote in elections for Federal offices where either parent is eligible to vote under UOCAVA.

Emergency Authority for Chief Election Official

During a period of a declared emergency, it is recommended that the Chief Election Official in each state and territory have the authority to designate alternate methods for handling absentee ballots to ensure citizens have the opportunity to exercise their right to vote. The Chief Election Official and the FVAP mutually could establish expeditious methods for handling absentee ballots including, but not limited to, electronic transmission or fax.

H.R. 699, THE MILITARY VOTING RIGHTS ACT OF 1997

The Federal Voting Assistance Program in working within state and local government statutory requirements and consulting with state and local election officials in carrying out the responsibilities of the *Uniformed and Overseas Citizens Absentee Voting Act* continues making progress in streamlining and bringing uniformity to the electoral process. The adoption of H.R. 699, would further facilitate the electoral process and ensure the enfranchisement of Uniformed Service citizens. Specifically, the adoption of H.R. 699 would ensure those citizens serving our Nation would have continued opportunity to participate in their democracy at all levels of government. H.R. 699 adoption would also further support all the state and territory statutes providing a local, state and Federal office ballot to Uniformed Service voters.

Thank you for giving me the opportunity to discuss this proposed legislation.

ATTACHMENT

Adequate Ballot Transit Time— 40 days or more
39 states and territories

Alabama
Alaska
Connecticut
District of Columbia
Florida
Georgia
Guam
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maryland
Michigan
Mississippi
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Carolina
North Dakota
Oregon
Ohio
Pennsylvania
Puerto Rico
South Carolina
South Dakota
Tennessee
Texas
Utah
Virgin Islands
Virginia
West Virginia
Wyoming

One Federal Post Card Application (FPCA) Request for All Elections in a Calendar Year
46 states & territories

Alaska
Arizona
Arkansas
California
Colorado
Delaware
District of Columbia
Florida
Georgia
Guam
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virgin Islands
Virginia
Washington
West Virginia
Wisconsin
Wyoming

Notarization of the Federal Post Card Application Required
9 states and territories

Alabama
American Samoa
Colorado
Michigan
Mississippi
Puerto Rico
Rhode Island
Vermont
Wisconsin

"Not Earlier Than" Deadline Removed
44 states and territories

Alabama
Alaska
Arizona
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Guam
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Texas
Utah
Vermont
Virgin Islands
West Virginia
Wyoming

Ballot Return Deadline Before Election Day
4 states

Iowa
Maryland
New York
Utah

Expanded Use of the Federal Write-In Absentee Ballot
4 states

Iowa
Montana
Virginia
West Virginia

Late Registration Procedures
22 states and territories

California
Connecticut
Illinois
Iowa
Kansas
Maryland
Massachusetts
Missouri
Montana
Nebraska
Missouri
New Hampshire
New Jersey
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Utah
Virgin Islands
Virginia
Wyoming

State Special Write-In Ballot
24 states

Alaska
Arizona
California
Colorado
Connecticut
Delaware
Georgia
Indiana
Iowa
Louisiana
Maine
Missouri
Nebraska
New Hampshire
North Dakota
Oklahoma
Oregon
Pennsylvania
South Carolina
Tennessee
Utah
'Virginia
Washington
Wisconsin

Electronic Transmission of Election Materials
41 states and territories

Alaska
American Samoa
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Georgia
Guam
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Louisiana
Maine
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Jersey
North Dakota
Ohio
Oklahoma
Oregon
South Carolina
Tennessee
Texas
Utah
Vermont
Virgin Islands
Virginia
Washington
Wisconsin

Enfranchisement of Citizens Who Have Never Resided in the U.S.
4 states

Georgia
Iowa
Oregon
Tennessee

Emergency Authority for Chief Election Official
7 states and territories

Colorado
Hawaii
Indiana
Iowa
Missouri
Virgin Islands
Virginia

STATEMENT OF KIMO HOLLINGSWORTH, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE COMMISSION
THE AMERICAN LEGION
TO THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
MILITARY VOTING RIGHTS ACT OF 1997

JUNE 4, 1997

Mr. Chairman and members of this Committee, thank you for holding this hearing regarding H.R. 699, the Military Voting Rights Act of 1997. The American Legion appreciates this opportunity to present its views on legislation to clarify the rights of active duty military personnel regarding absentee voting. It is truly a sad day in America and very disturbing that some would challenge the right of military personnel to participate in state and local elections when serving in uniform.

On December 19, 1996 Texas Rural Legal Aid (TRLA) filed suit against Val Verde County, Texas alleging that 800 absentee ballots were improperly counted in local races. The challenge argues that the Uniformed and Overseas Absentee Voting Act was not intended to allow voting in state and local elections. H.R. 699, the Military Voting Rights Act of 1997 would make explicit the right of active duty military personnel and their dependents to vote in all federal, state and local elections. In addition, the bill would amend the Soldiers' and Sailors' Relief Act of 1940 to extend additional voting rights protections to guarantee that extended absences incurred as a result of military service do not result in the loss of residency for voting purposes.

The American Legion believes one of the most important responsibilities for the people of a free nation is exercising their right at the ballot box. This right and responsibility is as important to our nation's active duty military as it is to the rest of the population. Forfeiting the comforts of home and family for the sake of national security, the opportunity to vote becomes a more cherished right, a more heightened responsibility. Even the United States Armed Forces are aware of the importance of voting and are committed to ensuring military personnel exercise this right. The issue of voting in the military is so important, that units are required to assign a voting officer to educate personnel on the voting process and ensure they are registered to cast ballots in local, state and federal elections.

Anyone who has served the nation in the military knows that every right enjoyed and exercised by the average American is, of necessity, not inherent in military service. When serving in uniform, military personnel are forced to give up personal rights and freedoms and become subject to the Uniform Code of Military Justice. In addition, service personnel also lose control of their political voice and involvement in political activities. Sadly, the one hall mark of democracy that military personnel serve to up hold, the right to vote, is now under attack.

Individuals in the armed forces serve to protect a government "by the people and for the people." This democratic concept helps shape their community and effects the lives of all those within. It is only right that those on active duty serving away from their state of residence should be afforded every opportunity to help structure their local, state and federal governments. Why else should they serve? If military personnel have met the requirements for state residency and are current state residents, they should be able to exercise their right to vote in federal, state and local elections.

In addition, the presence of the military is an extremely important part of these communities. Money generated by the presence of the military and its associated personnel provide a substantial amount monetary and other types of benefits into the local economies. In military communities, the presence of the Armed Forces helps to

sustain local governments and even contributes to the educational system through Impact Aid for local schools. Simply put, attempting to prevent military personnel and their dependents from participating in shaping their home of residence, regardless of where they are stationed, is discrimination. The American Legion fully supports H.R. 699.

Mr. Chairman, this concludes my testimony.

NATIONAL ASSOCIATION FOR UNIFORMED SERVICES

5535 HEMPSTEAD WAY
SPRINGFIELD, VA 22151-4094
(703) 750-1342
Fax (703) 354-4380
"The Servicemember's Voice in Government"
Established 1968

SOCIETY OF MILITARY WIDOWS
(Affiliated 1984)

December 31, 1996

President William J. Clinton
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Association for Uniformed Services, as well as all of our members and potential members, I would like to thank you for the very complimentary and supportive things that you said about members of the uniformed services during your annual Christmas message and also in remarks that you made to Marines at Camp Lejeune. I am writing to bring to your attention the fact that at least one part of your Administration has undertaken a course of action completely inconsistent with your recent expressions.

I am talking about the Legal Services Corporation (LSC) and Texas Rural Legal Aid (TRLA), one of LSC's major grantees. On December 19, 1996 TRLA filed a suit (Civil Action Number 96-CA-108) in the United States District Court for the Western District of Texas, Del Rio Division. The named defendants are Val Verde County, Texas, and Maria Elena Cardenas, the County Clerk of Val Verde County. TRLA seeks a temporary restraining order and an injunction requiring the defendants to "throw out" military absentee ballots cast in the November 1996 general election.

The real parties in interest in this dispute are the brave young men and women from Val Verde County who are serving in the Armed Forces all over the world. If TRLA is successful in its lawsuit, these voters will be disenfranchised, but they have not even been made aware of the pendency of this suit, much less have they had the opportunity to present arguments as to why their ballots should be counted. And, to add insult to injury, their own Federal tax money (through LSC) is being used to finance this lawsuit.

TRLA contends that these military personnel are not eligible to vote in Val Verde County because they have been absent from the county for several years. Of course they have been absent, **because of their service to our country**. I respectfully suggest that these citizens should have at least as much right to vote as any other citizens of Val Verde County. After all, were it not for their sacrifices, none of us would have the opportunity to vote in free elections.

In a 1952 letter to Congress (see enclosure), President Truman said:

> About 2,500,000 men and women in the Armed Forces are of voting age at the present time. Many of those in uniform are serving overseas, or in parts of the country distant from their homes. They are unable to return to their States either to register or to vote. Yet these men and women, who are serving their country and in many cases risking their lives, deserve above all others to exercise the right to vote in this election year. At a time when these young people are defending our country and its free institutions, the least we at home can do is make sure that they are able to enjoy the rights they are asked to fight to preserve.

I am sure that you agree that President Truman's words are as true today as they were in 1952. Accordingly, I respectfully call upon you to do two things. First, please direct the Legal Service Corporation to cut off all funding for Texas Rural Legal Aid unless that organization drops the subject lawsuit. Second, please direct the Attorney General to intervene in the subject lawsuit on behalf of the military personnel from Val Verde County who are likely to be disenfranchised without such intervention.

Very respectfully,

J.C. PENNINGTON
Major General, U.S. Army (Retired)
President

Copy to: Senator Phil Gramm
Senator Kay Bailey Hutchison
Senator Strom Thurmond
Senator Carl Levin
Representative Henry Bonilla
Representative Ronald V. Dellums

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