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COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED TWELFTH CONGRESS

September 12, 2011

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ROBERT L. SIMMONS, II, STAFF DIRECTOR

The Honorable Leon Panetta
Secretary of Defense
Washington, DC 20301

Dear Secretary Panetta:

It is now eight days before the effective date of the repeal of section 654, title 10, U.S. Code, governing service by openly gay and lesbian personnel. You certified on July 22, with the President and the Chairman of the Joint Chiefs, that, among other things, the Department of Defense has prepared the necessary policies and regulations to exercise repeal of section 654.

Since that date, committee officials have requested, but not received, copies of the revised regulations and a summary of all the specific policy changes, especially with regard to benefits, that will take effect upon repeal.

This failure to meet the committee's requests leads us to conclude that decisions on the policies and regulations to implement repeal are not complete and that your certification and those of the others were inaccurate.

Furthermore, we find it unconscionable that the policies and regulations that provide the guidelines and procedures to be used by service members and their leaders to implement repeal, as well as to protect the interests of all service members, including gay and lesbian members, remain unpublished.

In addition, we now understand that certain regulations and policies necessary for implementation will have to undergo a review and comment period before they can be effective and that this period is not scheduled to begin until September 20th. The need for review and comment before these regulations and policies can be effective directly contravenes the July 22 certifications. The Department is not ready to implement the repeal because all the policies and regulations necessary for the transition are not yet final.

We believe this significant shortfall could have been avoided if the Department would have initiated the review and comment period soon after the President signed the repeal into law in December 2010. Since it is evident that the Department does not have final, approved policies in place, we believe it is essential that you take immediate action to delay the implementation of

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repeal until such time that the review and comment period is completed, that DOD has incorporated the changes suggested during that comment period, and that the appropriate regulations needed to implement repeal have been distributed to and are understood by the leaders and key personnel in the field.

In addition, Defense Department officials, using the rationale that views of the senior military leaders were predecisional, allowed this committee only the briefest opportunity to review, but not to retain a copy of the senior military leaders' memoranda regarding the repeal of section 654. We would ask that the senior military leaders' memoranda immediately be made public and transmitted to the Committee on Armed Services.


Mr. Secretary, we trust that you will see the risk of moving forward with repeal without giving service members and their leaders adequate time to study, understand and prepare themselves to implement the revised policies and regulations they will need to be successful. We believe that a delay in the effective date of the repeal until DOD managers have fully resolved all the questions emerging from the review and comment process would be the most responsible decision.

We thank you for your consideration and look forward to your response.

Sincerely,



Howard P. "Buck" McKeon
Chairman



Joe Wilson
Chairman
Military Personnel Subcommittee

HPM:jbw