FEDERAL VOTING ASSISTANCE PROGRAM
DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1155

September 17, 2007

Ms. Linda H. Lamone
Administrator
State Board of Elections
P.O. Box 6486
Annapolis, MD 21401-0486

Dear Ms. Lamone,

I would like to thank you for the work you and the state of Maryland have done over the past several years to promote and support the legislative initiatives the Federal Voting Assistance Program (FVAP) has recommended. The 2006 elections pointed out the importance of the states enacting these legislative initiatives. In particular, the provision of 45 or more days for ballot transit; electronic transmission of Federal Post Card Applications, blank ballots, and voted ballots; and, authorization for the state chief election official to implement emergency measures. States with these provisions were able to support a greater number of situations faced by our brave men and women serving in combat areas such as Iraq and Afghanistan, and other U.S. citizens worldwide. I would ask you also to consider alternative methods that these citizens could use to request their absentee ballots such as phone, email or by proxy, and utilizing digital signatures with electronically transmitted materials.

After reviewing Maryland's existing election code and procedures, I have identified six initiatives that the Maryland legislature might consider during the upcoming legislative session. These initiatives are discussed in detail with suggested wording in the enclosed legislative initiatives document. If these initiatives are enacted and signed into law, they would significantly help to facilitate the absentee voting process for Maryland citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 16,802 Uniformed Services members, an estimated 12,000 family members and approximately 68,000 overseas citizens that claim Maryland as their voting residence.

As you review the enclosed initiatives for possible inclusion in Maryland's 2008 legislative agenda, please do not hesitate to contact us for assistance. We can provide legislative wording that other states have enacted to implement similar measures and provide written or in-person testimony, if desired. We have come a long way in simplifying the absentee voting process since the enactment of the *UOCAVA*—let's continue our joint efforts to achieve the simplest possible absentee voting process while maintaining its integrity.

Sincerely,

J. Scott Wiedmann
Deputy Director

Enclosure:
2008 Legislative Initiatives and Suggested Wording

Maryland 2008 Legislative Initiatives and Sample Language

Electronic Transmission of Election Materials

Since the 1990 general election, faxing has proven to be a valuable alternative method for facilitating the enfranchisement of military persons and overseas citizens serving their country who may have otherwise been unable to vote. This initiative has helped to ensure that 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 and location 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 voter and local election officials. Your 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 a major obstacle to voting absentee and allow local election officials more administrative flexibility in preparing election materials.

Maryland has done an exceptional job passing legislation on behalf of *UOCAVA* voters regarding electronic transmission of election materials. However, we request your consideration again to make further changes in Maryland law/administrative procedures that would include the faxing of the voted ballot for all *UOCAVA* absentee voters and of the FPCA for registration purposes. We realize that Maryland allows faxing of the FPCA for an absentee ballot request and now the unvoted ballot and that Maryland law prohibits electronic facsimile if the document requires a signed affidavit. However, we encourage expansion of this alternative to include electronic transmission of the FPCA for registration (since we instruct voters to submit the original, signed FPCA after faxing and the FPCA form is a simultaneous request for registration and request for absentee ballot) and acceptance of the voted ballot electronically from the voter (signature already on file) where circumstances would otherwise disenfranchise a citizen. The sample language below accommodates these alternatives.

Sample Language

An applicant who is a member of the United States Uniformed Services, merchant marine, a family member, or a qualified elector living outside the United States may apply for registration and an absentee ballot by electronic transmission if otherwise qualified to apply for and vote by absentee ballot. A local board of elections may receive FPCAs for registration, send blank ballots and accept voted ballots from eligible electors via electronic transmission.

Late Registration Procedures

Although the Maryland General Assembly deleted the late registration provision from Maryland law, we never-the-less encourage you to recommend that Maryland reinstate procedures **to allow persons recently separated from the Uniformed Services and their family members to be able to register late (or be exempt from registration).** Previously, honorably discharged military personnel and their spouses and dependents could still vote absentee if a Federal Post Card Application arrived not later than 8 p.m. on election day. Additionally, we recommend that Maryland expand this procedure **to allow persons recently separated from overseas employment and their family members 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 your state just prior to an election. This time frame does not meet your state's normal residency requirements. Often the date of discharge or termination of overseas employment and a state's registration requirement combine to disenfranchise a discharged military member or overseas citizen returning home after employment abroad. Special procedures to allow these persons to register and vote would solve this problem. **Thirty** states now allow such procedures.

Sample Language

An individual, or accompanying family member who has been discharged or separated from the Uniformed Services, merchant marine, or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular state deadline for registration, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge, separation, or termination of employment.

State Write-In Absentee Ballot

Although Maryland provides ample time for transit of ballots under normal circumstances, especially with late counting, we continue to recommend that Maryland provide a state write-in absentee ballot for all elections as a means to vote in case there are delays in mailing and returning absentee ballots. Again, the main purpose of the state write-in absentee ballot is to **provide a method for voting by military and other persons 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 your state in the normal time frame**. A voter could request a state write-in absentee ballot 90 days in advance and write in the names of the candidates or party preferences. The voter knows in advance that he or she will not be able to receive, vote, and return the regular ballot from the state in time to be counted. **Twenty-six** states now provide state write-in absentee ballots.

This state 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 military stationed overseas and overseas citizens who have already applied for a regular ballot from the State. They do not know in advance that they need the FWAB. However, if the regular ballot from the state does not arrive in sufficient time for the voter to return the voted ballot and meet the state deadline, these voters may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state 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. There are presently twelve states that have expanded the use of the FWAB beyond Federal law. The revised FWAB was designed to accommodate its use beyond the general election and Federal offices only.

Sample Language

If the voter is a U.S. citizen residing outside the United States or is a member of the United States Uniformed Services, merchant marine or family member and a qualified elector, he or she may request, not earlier than 180 days before an election, a state write-in absentee ballot. The voter must submit with the request a statement that provides that due to military or other contingencies that preclude normal mail delivery, the elector cannot vote an absentee ballot during the normal absentee voting period. The ballot will be available 90 to 180 days before the election.

Expand Use of Federal Write-In Absentee Ballot

We appreciate the action taken by the Maryland State Board of Elections to allow overseas voters to cast votes for state and local offices in primary and special Federal elections using the Federal Write-In Absentee Ballot (FWAB). Since this ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership, many overseas citizens have access to it and would not be disenfranchised because their regular ballots were not received in a timely manner.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB voter declaration 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 voter declaration is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB be accepted simultaneously as a registration form and ballot by the state for general election and Federal offices if:

(1) the information submitted complies with the state's registration requirements;

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

(3) the request is received by the appropriate state election official not less than 30 days before the election or by the registration deadline established by the state.

The adoption of this initiative would save the state money and alleviate administrative responsibilities on the local election official.

Sample Language

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

If the voter is residing outside the United States or is a member of the United States Uniformed Services, merchant marine, or a family member and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) transmission envelope as a request for registration simultaneously with the submission of the FWAB if:

(1) the information submitted complies with the registration requirements of the state;

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

(3) the request is received by the appropriate state election official not less than 30 days before the election or by the registration deadline established by the state.

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

There are many U.S. citizens who have never resided in a state and under current law are not entitled to vote. These are usually citizens who 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, they would be eligible to vote in Federal elections. Some local election officials make exceptions and allow these citizens to vote. **Sixteen** states have passed legislation allowing these citizens to claim the legal residence of a parent. **We recommend these citizens be allowed to vote in elections for Federal offices** where either parent is eligible to vote under *UOCAVA*. To address your concerns about lack of control over the process, the citizen must provide a valid Maryland residence address and sign the FPCA attesting that he/she is a U.S. citizen and is not voting in any other jurisdiction.

Sample Language

If a U.S. citizen outside the United States who has never lived in the United States has a parent who is a qualified elector, then that person is eligible to register and vote where his or her parent is a qualified elector.

Acceptance of a Signature and Date on Ballot as Evidence of Time of Completion

We recommend that Maryland **accept the signature and date on a ballot envelope as evidence of the time the ballot was completed by a uniformed service or overseas voter in lieu of a postmark**. Although UOCAVA voters may have voted and mailed their ballot in a timely manner, the ballot envelope may not have been postmarked on that date. By signing and dating the ballot the voter, under penalty of perjury, is certifying that their ballot was voted prior to the close of polls on election day.

Sample Language

If the voter is residing outside the United States, or is a member of the United States Uniformed Services, merchant marine, or a family member, and a qualified elector, the ballot shall be counted if it is signed and dated by the voter prior to the close of polls on election day and received by the absentee ballot deadline.