FEDERAL VOTING ASSISTANCE PROGRAM

DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1155

September 24, 2007

The Honorable Sam Reed
Secretary of State
Legislative Building, 2nd Floor
P.O. Box 40220
Olympia, WA 98504-0220

Dear Secretary Reed,

I would like to thank you for the work you and the state of Washington have done over the past several years to promote and support the legislative initiatives the Federal Voting Assistance Program (FVAP) has recommended. Washington is to be commended for the recent enactment of legislation providing online registration to Washington residents who have either a Washington state driver's license or state identification card. 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 utilizing digital signatures with electronically transmitted materials.

After reviewing Washington's existing election code and procedures, I have identified six initiatives that the Washington 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 Washington's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 52,416 Uniformed Services members, an estimated 39,000 family members and approximately 76,000 overseas citizens that claim Washington as their voting residence.

As you review the enclosed initiatives for possible inclusion in Washington'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

Washington 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 ensure these citizens were not disenfranchised by allowing them to cast a ballot when they would otherwise not 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 the major obstacle to voting absentee and allow local election officials more administrative flexibility in preparing election materials.

Consideration should be given to expand the use of modern technology in the absentee voting process. We realize Washington enacted legislation to provide for electronic transmission of the Federal Post Card Application (FPCA) for registration and ballot requests and allows electronic transmission of the blank ballot. However, we recommend expanded use of this alternative to include accepting the electronic transmission of the voted ballot without the requirement to return the original document prior to election certification.

Sample Language

An applicant who is a member of the United States Armed Forces or the United States merchant marine, a family member, or is 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 election official may send and receive absentee ballot applications and accept voted ballots from eligible electors via electronic transmission.

Emergency Authority for Chief Election Official

During a period of a declared emergency or other situation where a short time-frame for ballot transmission is created, it is recommended that **Washington's Chief Election Official have the authority to designate alternate methods for handling absentee ballots** to ensure voters have the opportunity to exercise their right to vote. The Chief Election Official and the Federal Voting Assistance Program could establish expeditious methods for handling absentee ballots including electronic transmission. As an example, in light of the surge of Guard and Reserve forces being deployed, the Chief Election Official can temporarily allow electronics transmission of voting materials for Active Duty Military. **Seventeen** states have

passed legislation giving the Chief Election Official authority to designate alternate methods of handling absentee ballots in emergency situation.

Sample Language

The chief election official may exercise emergency powers over any election being held in a district in which either a natural disaster or extremely inclement weather has occurred. The chief election official may also exercise emergency powers during an armed conflict involving United States Armed Forces, or mobilization of those forces, including State National Guard and Reserve components of this state, the Chief Election Official may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in the state.

The Chief Election Official shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

Late Registration Procedure

We recommend that **Washington allow persons recently separated from the Uniformed Services, the merchant marine or overseas employment, and their family members, to be able to register after the standard registration deadline or be exempt from registration**. Many members of the Uniformed Services, merchant marine and overseas citizens go through a relocation transition period when they separate from service or overseas employment. The timing of their discharge or employment termination may prevent them from meeting Washington's 15-day late registration deadline. We recommend that *UOCAVA* citizens be permitted to register up to the day of the next ensuing election when these circumstances arise.

Sample Language

An individual, or accompanying family member, who has been discharged or separated from the Uniformed Services, the 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, shall be entitled to register up to the day of the next election after such discharge, separation, or termination of employment.

Reference to the Uniformed and Overseas Citizens Absentee Voting Act (*UOCAVA*) in the State Election Code

In 1986, Congress updated and consolidated the provisions of Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975 into the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. **Reference to *UOCAVA* in the state election code** will help election officials and interested citizens find guidance to applicable Federal law and increase their familiarity with the statute and its application. We recommend

that UOCAVA be referenced in appropriate sections of the state election code. **Thirty-seven** states now reference the UOCAVA in their election code.

Sample Language

This language is usually found under the chapter in the state Election Code that makes reference to Federal elections:

It is the intent and purpose of this Legislature that the provisions set forth in this chapter are designed to facilitate the Federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff et. seq.).

Expand Use of Federal Write-In Absentee Ballot

Currently the Federal Write-In Absentee Ballot (FWAB) may be used only in general elections for Federal offices only. 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 for Federal offices**, citizens would not be disenfranchised because 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 FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During past primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Thirteen** states have legislatively expanded the use of the FWAB for other than Federal offices beyond the Federal law.

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; 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, whichever is later.

The adoption of this initiative would save Washington money, and alleviate administrative responsibilities on the part of the chief election officer.

Sample Language

- Expanded use of the FWAB:

If the voter is residing outside the United States or is a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local, state and Federal offices.

- 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 or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) voter declaration 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, whichever is later.

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

There are many U.S. citizens who have never resided in the U.S. and under current law are not entitled to vote. These are usually first or second-generation 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 elections for Federal office. **Fifteen** 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.**

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 citizen is eligible to register and vote where his or her parent is a qualified elector.