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FEDERAL VOTING ASSISTANCE PROGRAM

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March 22, 2011

The Honorable Kirk Adams
Speaker of the House
State of Arizona
1700 W. Washington, Room 221
Phoenix, AZ 85007

Dear Representative Adams,

Thank you for the work you and your State have done to support Arizona's military and overseas voters through the Legislative Initiatives recommended by the Federal Voting Assistance Program (FVAP). Election officials nationwide have gone to great lengths to comply with the recently enacted Military and Overseas Voter Empowerment Act of 2009 (MOVE Act), and our previous Legislative Initiative letters were sent before that law was enacted. We believe this letter captures your State's post-MOVE Act changes as we previously coordinated with the elections office. Information available to FVAP indicates that there are 27,669 Uniformed Service members and 17,372 spouses and dependents who claim Arizona as their voting residence. Additionally, FVAP estimates there are anywhere from two to four million American citizens residing overseas who claim residency in one of the 55 covered States or Territories, and therefore a portion likely reside in your State.

Despite the improvements in military and overseas voting success brought about by the MOVE Act and State initiatives, preliminary post-2010 election data appears to confirm what we learned after the 2008 election: military and overseas voters still face greater difficulties in successfully casting a ballot than does the general population, and timely delivery and return of ballots appears to be the leading cause of that failure.

From 2008 through 2010, FVAP joined the National Association of Secretaries of State, the National Association of State Election Directors, and many other military and overseas voting stakeholders in advising the Uniform Law Commission's drafting committee on the Uniform Military and Overseas Voters Act (UMOVA). In addition to addressing many specific hurdles identified in previous legislative initiative letters FVAP has sent Arizona, UMOVA addresses one of the overriding concerns of military and overseas voters: the confusing and complex national patchwork of laws and regulations governing absentee voting. After a September 2008 visit to military bases in the Middle East, Asia and Europe, a delegation of six State Chief Election Officials stated that the sheer variety of State and local laws imposed on military and overseas voters is of its own right an impediment to their voting, because of the complexity it introduces for the voters and Voting Assistance Officers charged with helping them.

UMOVA's goal is to simplify the myriad absentee voting regulations and procedures into a uniform process common to all 55 States and territories. It also seeks to extend the MOVE Act provisions to State and local elections, ensuring that service people and citizens overseas have

the same rights to participate in electing State and local officials as they have for federal officials. FVAP strongly encourages Arizona to adopt UMOVA.

Given that the MOVE Act requires States send ballots to voters at least 45 days before the election and to send them electronically as well as by postal mail, FVAP recommends the expanded use of email and online transmission for all election materials throughout the entire absentee voting process, thereby supplementing fax and postal mail where possible.

FVAP will continue to encourage and assist Uniformed Service and overseas voters to increase the use of the Federal Write-in Absentee Ballot (FWAB). Given the inherent delays in sending ballots by mail, the FWAB represents the only ballot readily available for many of these voters. Therefore, FVAP recommends that States expand the use of the FWAB to include simultaneous registration, ballot request, and voted absentee ballot for federal, State and local offices for the elections required by the MOVE Act: general, primary, special, and runoff.

Other initiatives remain crucial to alleviating the problems faced by citizens covered by the UOCAVA, including the elimination of witnessing requirements (notary can no longer be required after passage of the MOVE Act), the authorization for the State Chief Election Official to implement emergency measures, the establishment of late registration procedures, and the enfranchisement of U.S. citizens who have never resided in the United States.

After reviewing Arizona's existing election code and procedures, we identified one Initiative for your legislature to consider during this year's legislative session. These Initiatives are discussed in detail with suggested wording in the enclosed Legislative Initiatives document. Please do not hesitate to contact us for assistance. We would be happy to provide written or in-person testimony to clarify our position on any or all of these initiatives.

Sincerely,

Bob Carey
Director, Federal Voting Assistance Program

Enclosure:
2011 Legislative Initiatives and Sample Language

CC: The Honorable Ken Bennett
The Honorable Russell Pearce

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FVAP
2011 Legislative Initiatives

In addition to the explanation of need for each of the Legislative Initiatives detailed below, draft legislative language is provided. This language is derived from the legislative language provided in the Uniform Military and Overseas Voters Act (UMOVA), presented by the Uniform Law Commission in June 2010. A complete copy of the model legislation can be found at www.umova.org.

Expanded Use of Federal Write-In Absentee Ballot

FVAP continues to encourage and assist Uniformed Service and overseas voters to greatly increase the use of the Federal Write-in Absentee Ballot (FWAB). Given the inherent delays in sending ballots by mail, the FWAB represents the only ballot readily available for many of these voters. Therefore, FVAP recommends that States expand the use of the FWAB to include simultaneous registration, ballot request, and voted absentee ballot for federal, State and local offices for the elections required by the MOVE Act: general, primary, special, and runoff. In expanding the use of the FWAB in this manner, individually-developed State Write-In Ballots will no longer be needed, and FVAP recommends that they be replaced with the FWAB alone. Universal adoption of the FWAB will standardize the "emergency ballot" process for UOCAVA voters, reduce confusion as to which form to use, and allow election officials to focus their education on a single form and its processes for timely return.

Sample Language

(1) An absent uniformed services voter or overseas voter may use a Federal Write-In Absentee Ballot, in accordance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, to vote for all offices in any general, special, primary, or runoff election for Federal, State, or local government office, or a ballot measure.

(2) An absent uniformed services voter or overseas voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot[, if the declaration is received by [insert this state's voter registration deadline for that election]]. [If the declaration is received after that date, it must be treated as an application to register to vote for subsequent elections.]

Adoption of Recommendations of the Uniform Law Commission

The Uniform Law Commission (ULC) has presented the *"Uniform Military and Overseas Voters Act" (UMOVA)* for adoption by the States. FVAP supports the Commission in this endeavor, and recommends that the States adopt the *Act*. The sheer diversity of individual election laws regarding Uniformed Services and overseas voters is, in and of itself, a serious hindrance to these voters successfully exercising their franchise. Uniformity and standardization of voting laws for the Uniformed Services and overseas voters would substantially ease the burden of compliance, improve voter success, and would help reduce the variation in terms and procedures between States.

Some States currently have statutory provisions that go beyond the recommendations of the *UMOVA*, providing greater opportunities for military and overseas voters. While FVAP encourages adoption of the *UMOVA* language for uniformity, care must be taken to avoid regressing by adopting legislation that is less than what is already provided by State law. FVAP stands ready to assist States in legislative drafting to optimize both voter opportunity and standardization. Further information on *UMOVA* is available at www.umova.org.