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FEDERAL VOTING ASSISTANCE PROGRAM

FEDERAL VOTING ASSISTANCE PROGRAM
Department of Defense
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March 22, 2011

The Honorable Kris Steele
Speaker of the House
Oklahoma House of Representatives
2300 N. Lincoln Blvd, Room 401
Oklahoma City, OK 73105

Dear Speaker Steele,

Thank you for the work you and your State have done to support Oklahoma'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 15,538 Uniformed Service members and 16,774 spouses and dependents who claim Oklahoma 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 Oklahoma, 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 Oklahoma 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 Oklahoma's existing election code and procedures, we identified two Initiatives 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,

Digitally signed by CAREY.ROBERT.HARRISON.JR.1098129452
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USN, cn=CAREY.ROBERT.HARRISON.JR.1098129452
Date: 2011.03.21 12:34:37 -04'00'

Bob Carey
Director, Federal Voting Assistance Program

Enclosure:
2011 Legislative Initiatives and Sample Language

CC: The Honorable Brian Bingman
Chairman Thomas E. Prince

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FVAP
2010 Legislative Initiatives

Email and Online Transmission of Voting Materials

Email and online capabilities are widely available to, and have become the communications standard for Uniformed Service members and overseas citizens, basically replacing fax and mail. Transmission of voting materials by email or online has improved the opportunity to vote for *UOCAVA* citizens by providing high-speed delivery of election materials to and from voters and local election officials. Fax capabilities, on the other hand, are generally unavailable to military voters and overseas citizens. It is necessary that email and online transmission options are available to all Uniformed Service members, their families, and overseas citizens, and that they become the principal methods of sending election materials to these citizens. It is also crucial that the States expand the use of email and online transmission for all elections materials, including registration forms, ballot requests and absentee ballots. Furthermore, voting materials transmitted by electronic means should not require subsequent submission by mail.

While this scoring system does not give points for providing electronic absentee balloting systems, it does provide points for allowing, at the voter's discretion, the return of static copies of voted ballots by electronic means, such as a scanned copy of a voted ballot emailed back to an election official. Although necessarily forcing the voter to relinquish the right to a private ballot, many Uniformed Services and overseas voters would rather give up that right and have their ballots counted, then to not have their ballot counted at all. FVAP believes that option must be preserved for these voters.

The use of these technologies opens a rapid, cost-efficient and effective line of communication between local election officials and *UOCAVA* voters that is capable of providing immediate updates regarding the successful delivery of voting materials and voter registration information. Finally, for the more mobile *UOCAVA* voters, especially Uniformed Services voters, email addresses are much more stable and consistent than postal mail addresses.

Sample Language

Absent uniformed services voters or overseas voters who have requested to receive ballots and balloting materials by electronic transmission may choose either facsimile transmission or electronic mail delivery, or Internet delivery if offered by the voter's jurisdiction. Local election officials, with the assistance, as appropriate, of [the state's chief election authority], shall transmit ballots and balloting materials to the voter using the electronic means that the voter has chosen.

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.