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

September 14, 2007

Mr. Gary O. Bartlett
Executive Director
P.O. Box 27255
Raleigh, NC 27611-7255

Dear Mr. Bartlett,

I would like to thank you for the work you and the state of North Carolina 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 North Carolina's existing election code and procedures, I have identified six initiatives that the North Carolina 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 North Carolina's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).* Information available to FVAP indicates that there are 30,357 Uniformed Services members, an estimated 22,000 family members and approximately 110,000 overseas citizens that claim North Carolina as their voting residence.

As you review the enclosed initiatives for possible inclusion in North Carolina'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

North Carolina 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 Uniformed Services members and overseas citizens 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.

Please consider expanding the use of modern technology to overseas citizens. We realize that North Carolina allows the submission of the Federal Post Card Application for registration and absentee ballot request by overseas citizens. However, this should be extended to allow electronic transmission of the blank and voted ballot to these citizens from your state as you have done for Uniformed Services members. Thus, we strongly encourage expanded use of this alternative to include the electronic transmission of the blank ballot to **all** *UOCAVA* voters and the acceptance of the voted ballot from **all** *UOCAVA* citizens where circumstances would otherwise disenfranchise them. **Twenty-three** states have expanded use of electronic transmission to allow sending the blank ballot, and accepting the voted ballot

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. Election officials may receive absentee ballot applications, send blank ballots and accept voted ballots from eligible electors via electronic transmission.

State Special Write-In Absentee Ballot

We recommend that North Carolina provide a state write-in absentee ballot for all elections. The 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-seven** 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 **thirteen** 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 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

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 the 1996 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;

(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 North Carolina money and alleviate administrative responsibilities on the part of the local election official.

Sample Language

- Expanded use of the FWAB:

If the voter is residing outside the United States or 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 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, merchant marine, or a family member, 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.

Expansion of Late Registration Procedures

We realize that North Carolina currently **allows persons recently separated from the Armed Forces to register and vote in person up to and including election day.** We recommend expanding this option to Uniformed Services family members and to citizens returning from overseas employment. Many of these citizens go through a transition period 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 citizen.

Expanding the scope of your existing procedure would solve this problem. **Eighteen** states currently have a late registration procedure that includes all *UOCAVA* citizens.

Sample Language

An individual, or accompanying family member who has been discharged or separated from the Uniformed Services 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.

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 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 Federal elections. Some local election officials make exceptions and allow these citizens to vote. **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 person is eligible to register and vote where his or her parent is a qualified elector.

Elimination of Witness/Notary Requirement

North Carolina requires that the certificate on the ballot return envelope be witnessed by two persons 18 years of age or older. Witnesses must provide their signatures and addresses. We recommend that **North Carolina eliminate the requirement for voting materials be witnessed for uniformed service members and overseas citizens**. While such requirements may be appropriate for local or in-state absentee balloting, such requirements add an additional burden to the uniformed service and oversea voters in order to request an absentee ballot or to return a voted ballot.

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 need not be notarized or witnessed in order to be counted.