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

January 12, 2007

The Honorable Jennifer Brunner
Secretary of State
180 E. Broad Street
Columbus, OH 43215

Dear Secretary Brunner,

I would like to thank you and Secretary Blackwell for the work you 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 or email, and utilizing digital signatures with electronically transmitted materials.

After reviewing Ohio's existing election code and procedures, I have identified seven initiatives that the Ohio 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 Ohio's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 40,250 Uniformed Services members, 30,187 family members and approximately 144,810 overseas citizens that claim Ohio as their voting residence.

As you review the enclosed initiatives for possible inclusion in Ohio's 2007 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:
2007 Legislative Initiatives and Suggested Wording

Ohio 2007 Legislative Initiatives and Sample Language

Electronic Transmission of Election Materials

Since the 1990 general election, electronic transmission 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 not otherwise have been able to vote due to time and location constraints.

We realize that Ohio enacted legislation to provide for electronic transmission of the FPCA for ballot request and electronic transmission of the blank ballot to voters in the Uniformed Services. We encourage expanded use of this alternative to all UOCAVA citizens to include electronic transmission of the Federal Post Card Application for registration, electronically sending the ballot to the voter and accepting the voted ballot from the voter where circumstances would otherwise disenfranchise a citizen.

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.

Sample Language

An applicant who is a member of the United States Uniformed Services, the 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. An auditor or clerk 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 **Ohio'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. Fifteen states have granted emergency authority to the Chief Election Official.

Sample Language

If a national or local emergency or other situation arises which makes substantial compliance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, such as a natural disaster or 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.

Expansion of Late Registration Procedures

We realize that Ohio allows late registration for discharged military personnel and their spouses. However, we recommend expanding this alternative 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 not know in which state they will live. Others may move to a new state and not meet the state's 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 aboard. Special procedures to allow these persons to register and vote would solve this problem. Twenty-six states currently allow such procedures.

Sample Language

A person who has been discharged or separated from the Uniformed Services by separation from the merchant marine, or from employment outside the territorial limits of the United States, too late to enable such persons 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.

Waiver of Registration for Citizens Covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*

While we realize that registration is waived in Ohio for members of the U.S. Armed Forces and their family members, we encourage expansion of this provision to include all groups covered in the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)* definitions. The following is an extract from the UOCAVA, 42 USC 1973ff-6. Section 107. Definitions:

> "(1) "absent uniformed services voter" means --
>
> (A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;
>
> (B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and
>
> (C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote "

and

> "(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration".

The sample language below will accommodate this provision.

Sample Language

If you are a citizen voting under the Uniformed and Overseas Citizens Absentee Voting Act, your registration is waived and you may request an absentee ballot by submitting an FPCA so it is received by the county board of elections not later than 3 days before the election.

State Write-In Absentee Ballot

We also recommend Ohio 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. 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 11 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.

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 its use 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 complied 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

- Expanded use of the FWAB:

If the voter is residing outside the United States or a member of the United States Uniformed Services or a family member of a member of the Uniformed Services 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 a family member of a member of the Uniformed Services, 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.