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

December 18, 2006

The Honorable Pedro Cortes
Secretary of the Commonwealth
302 North Office Building
Harrisburg, PA 17120-0029

Dear Secretary Cortes,

I would like to thank you 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, email or by proxy, and utilizing digital signatures with electronically transmitted materials.

After reviewing Pennsylvania's existing election code and procedures, I have identified five initiatives that the Pennsylvania 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 Pennsylvania's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 56,143 Uniformed Services members, 42,107 family members and approximately 152,855 overseas citizens that claim Pennsylvania as their voting residence.

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

Pennsylvania 2007 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 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.

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. We request your support in developing the **acceptance of electronic transmission of absentee ballots in Pennsylvania**. With proper controls, this would cut the ballot transit time at least in half, reduce a major obstacle to voting absentee and allow local election officials more administrative flexibility regarding election materials.

Please consider expanding the use of modern technology in the absentee voting process. We realize that Pennsylvania allows the submission of the Federal Post Card Application for registration and absentee ballot request. However, Pennsylvania now only allows the electronic transmission of the blank ballot if a person in a designated hostile fire, imminent danger pay, combat zone or qualified hazardous duty area. Further, there is no faxing of the voted ballot in your state. We strongly encourage expanded use of this alternative to include the transmission of the blank ballot by fax to all *UOCAVA* voters and the acceptance of the voted ballot (to include a waiver of privacy) from all *UOCAVA* citizens where circumstances would otherwise disenfranchise them.

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.

Emergency Authority for Chief Election Official

During a period of a declared emergency or other situation where there is a short time frame for ballot transmission, we recommend that **Pennsylvania's Chief Election Official have the authority in law 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 mutually establish expeditious methods for handling absentee ballots including electronic transmission.

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, 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 Procedures

We recommend that **Pennsylvania allow persons recently separated from the Uniformed Services or overseas employment, and their family members, to be able to register late or be exempt from registration**. Many of these citizens go through a transition period when they first leave the Uniformed Services or overseas employment 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 discharged military member or overseas citizen returning home after employment abroad. Special procedures to allow these persons to register and vote would solve this problem. **Twenty-nine** states currently allow such procedures.

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.

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 and primary 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. 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** other 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 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.

The adoption of this initiative would save the state 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, and primary 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.

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 elections for Federal office. 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