



FEDERAL VOTING ASSISTANCE PROGRAM

Department of Defense
Rosslyn Plaza North
1777 North Kent Street
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Arlington, VA 22209-2162

May 26, 2011

The Honorable Richard Wardner
President Pro Tempore of the Senate
State of North Dakota
600 East Boulevard Avenue, Department 108
Bismarck, ND 58505

Dear Senator Wardner,

The Federal Voting Assistance Program (FVAP) thanks you for the work you and your State have done to support North Dakota's military and overseas voters through the Legislative Initiatives recommended by FVAP. FVAP especially appreciates North Dakota's adoption of the Uniform Military and Overseas Voters Act (UMOVA) as recommended by the Uniform Law Commission, thus addressing a very significant impediment to voting by military members, their families and citizens overseas. By adopting UMOVA, North Dakota has demonstrated its leadership in going beyond the requirements of federal law by expanding its assistance and protection of these citizens, and bringing more uniformity to the voting process.

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. Your state, in particular, has gone to great lengths over the last few months and successfully enacted legislation that will improve the voting process for Uniformed Service members and overseas citizens. Your efforts will directly assist the voters from your state. Information available to FVAP indicates that there are 3,006 Uniformed Service members and 4,083 spouses and dependents who claim North Dakota 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.

After reviewing North Dakota's existing election code and procedures, we identified one initiative for your legislature to consider at the next available opportunity: Authorization for the State Chief Election Official to implement emergency measures. This Initiative is 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 Alvin A. Jaeger
The Honorable David Drovdal

FVAP

2011 Legislative Initiatives

In addition to the explanation of need for the Legislative Initiatives detailed below, a draft legislative language is provided.

Emergency Authority for State Chief Election Official

During a period of a declared emergency or other situation where a short time-frame for ballot transmission exists, the Governor or designated State official should have the authority to designate alternate methods for handling absentee ballots to ensure UOCAVA voters have the opportunity to exercise their right to vote.

Sample Language

If an international, national, state, or local emergency or other situation arises that makes substantial compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq., impossible or impracticable, as confirmed by the existence of armed conflict involving United States Armed Forces or the mobilization of those forces, including State National Guard and Reserve component members of this state, or by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of emergency exists, the governor directly, or by delegation to [the state's chief election authority], may prescribe, by emergency order or rule, a special procedure or requirement as may be necessary to facilitate absentee voting by those absent uniformed services voters, or overseas voters directly affected who are eligible to vote in this state. [The state's chief election authority] shall take reasonable steps to provide absent uniformed services voters and overseas voters with timely notice of any special procedure or requirement prescribed under this section.]