



## FEDERAL VOTING ASSISTANCE PROGRAM

DEPARTMENT OF DEFENSE  
WASHINGTON, DC 20301-1155

September 26, 2008

The Honorable Alvin Jaeger  
Secretary of State  
Office of the Secretary of State  
600 East Boulevard, Department 108  
Bismarck, ND 58505-0500

Dear Secretary Jaeger:

Every year I recommend specific legislative initiatives, which if enacted, would simplify and streamline the absentee voting process used by our citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. I would like to thank you for the work you and the state of North Dakota have done over the past several years to promote and support these initiatives.

Recent elections have emphasized the importance of the states enacting 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 quickly respond to 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 Dakota's existing election code and procedures, I have identified three initiatives that the North Dakota 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 Dakota's citizens covered by *UOCAVA*. Information available to FVAP indicates that there are 3,080 Uniformed Services members, an estimated 2,300 family members and approximately 8,500 overseas citizens that claim North Dakota as their voting residence.

As you review the enclosed initiatives for possible inclusion in North Dakota's 2009 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 used by our *UOCAVA* citizens - let's continue to work together to achieve the simplest possible absentee voting process while maintaining the integrity of our elections.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Scott Wiedmann", is written over a horizontal line.

J. Scott Wiedmann  
Deputy Director

Enclosure:  
2009 Legislative Initiatives and Suggested Wording



## North Dakota 2009 Legislative Initiatives and Sample Language

### 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 **North Dakota'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. Eighteen states have provided this authority to their 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.*

### Acceptance of a Signature and Date on Ballot as Evidence of Time of Completion

We recommend that **North Dakota accept the signature and date on a ballot envelope as evidence of the time the ballot was completed by a uniformed service or overseas voter in lieu of a postmark.** Although *UOCAVA* voters may have voted and mailed their ballot in a timely manner, the ballot envelope may not have been postmarked on that date. By signing and dating the ballot the voter, under penalty of perjury, is certifying that their ballot was voted prior to the close of polls on election day.

### 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 shall be counted if it is signed and dated by the voter prior to the close of polls on election day and received by the absentee ballot deadline.*

**Reference to the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)* in the State Election Code**

Title 16 of the North Dakota Election Laws makes no reference to Federal law. In 1986, Congress updated and consolidated the provisions of the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975 into the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). **Reference to UOCAVA in the state election code** will help election officials and interested citizens find guidance to applicable Federal law and increase their familiarity with the statute and its application.

**Sample Language**

This language is usually found under the chapter in the State Election Code that makes reference to Federal elections:

*It is the intent and purpose of this Legislature that the provisions set forth in this chapter are designed to facilitate the Federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff et. seq.).*