

June 24, 2017

Dear Representative Terese Berceau:

This letter is a request to draft a bill that would bring Wisconsin into compliance with federal law regarding voting rights for overseas voters.

The Wisconsin Election Commission (WEC) received a letter from the Federal Voting Assistance Program (FVAP), which has the mandate to administer the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

The letter points out that Wisconsin statutes are not in conformance with federal law. Quoting from the first sentence of the second paragraph:

“Wisconsin’s definitions of military and overseas electors exclude certain classes of voters who are entitled to protection under UOCAVA.”

The letter deals with voters who are overseas, and have the intent to return. Under UOCAVA, they should have these three protections for federal elections:

- 1) The ability to submit a Federal Write-in Absentee Ballot.
- 2) The option to receive their ballot electronically.
- 3) Not be subject to additional ID requirements.

I am forwarding the March 13, 2017 letter you, and it is available at

https://www.fvap.gov/uploads/FVAP/EO/WILetteronIntendtoReturn_20170313_final.pdf

The second last paragraph indicates that the FVAP is willing and ready to work with Wisconsin to resolve these issues, and gives contact information for Nate Bacchus. He informed me that Wisconsin and New York are out of compliance on this issue.

The letter first became public when it appeared on page 115 of the materials for the WEC’s June 20 meeting. On page 101, the staff report states:

“It is the opinion of Commission staff that this request is more appropriately considered as a policy decision of the Legislature.”

The meeting materials are at <http://elections.wi.gov/about/meetings/2017/june>

Your draft legislation should ensure that the three items mentioned above are corrected. The letter from FVAP indicates which specific statutes are involved.

Note that the option to get a ballot via email is currently available to all voters due to a federal court order from July 29, 2016. However, this may be overturned upon appeal.

Sincerely,

Paul Malischke
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