Key Takeaways from President Trump's Election Integrity EO

President Donald Trump's March 25th election integrity executive order creates unfunded mandates for election officials and throws up unnecessary barriers for eligible U.S. citizens to participate in elections – barriers which would disproportionately harm members of the military and their families, as well as married women. Here are the most important things to understand about the order:

- There will undoubtedly be litigation against many of the order's provisions. This means a delay before we learn more about how the EO will be implemented.
- The EO depends on the Election Assistance Commission (EAC) to implement many of the EO provisions, which will require a majority vote of the EAC's four commissioners (two of whom are Democratic appointees). This could lead to an illegal firing of the independent agency's commissioners, which is likely to lead to future litigation.
- The order is full of unfunded mandates that create more work for election officials and, if enacted, would leave taxpayers footing the bill. For example, the EO's requirement for jurisdictions to implement updates to the Voluntary Voting System Guidelines 2.0 would cost a minimum of $3 billion upon implementation for equipment alone. The measures throughout the order would be extraordinarily costly and challenging for rural jurisdictions in particular.
- This is not likely to be an effective national takeover of elections - but is sloppy, illegal, and will likely make election administration much more difficult. Like the other EOs we're seeing, this will be a test of judges' ability to stop illegal activity by the administration.

Here's a closer look at what Trump's election integrity EO does:

- Requires documentary proof of U.S. citizenship for the federal voter registration form (an alternative method of registration accepted in almost all states for federal elections.)
    - Requires the EAC, an independent bipartisan federal agency, to revise the federal voter registration form within 30 days to require documentary proof of U.S. citizenship.
    - Requires the EAC to condition federal election funds to states on the use of documentary proof of citizenship for the federal voter registration form.
    - **Bottom Line:** The EAC is a four-member bipartisan agency, and the president does not have the authority to compel its members to take action. If there are fewer than three Senate-confirmed commissioners, the EAC would lack a quorum, and any actions taken by a quorum-less commission would be immediately subject to litigation. If implemented, this would make voter registration more difficult in states where the federal form has provided a more accessible version of voter registration than state options.

- Requires documentary proof of U.S. citizenship for military and overseas voters registering to vote in all states.
    - The Department of Defense must revise the Federal Post Card Application (used by military and overseas voters for registration) to require documentary proof of U.S. citizenship and other proof of eligibility to vote in a state's elections.

    - **Bottom Line:** This will make it extremely difficult for military and overseas voters to register and vote, as they would need to provide a copy of their passport or other proof of citizenship with their voter registration form. Litigation by states and affected military and overseas voters is likely on this issue. The Department of Defense is more subject to presidential control than the EAC, but military and overseas voters' access to the ballot is protected by federal law (UOCAVA).

- Requires the Secretary of Homeland Security and the Secretary of State to ensure that state and local officials can access federal databases containing citizenship/immigration information for free.
    - **Bottom Line:** If implemented, this will make it easier for states already interested in proof of citizenship requirements for registration and in purging potential non-citizens from the voter rolls to be able to move forward. However, implementation of this data sharing arrangement would be fraught, especially as recent cuts have reduced agencies' capacities.

- Pushes the Department of Justice (DOJ) to sue states that allow mail ballots postmarked on or prior to election day to be counted if received after election day.
    - In addition, it requires the EAC to withhold federal election funding for any states that accept ballots after election day, with the sole exception of overseas and military (UOCAVA) ballots.
    - This would potentially impact 15 states and DC. Namely: Alaska, California, DC, Illinois, Kansas, Maryland, Massachusetts, Nevada, New Jersey, New York, Ohio, Oregon, Texas, Virginia, Washington, and West Virginia.
    - **Bottom Line:** This is almost certainly heading to the Supreme Court. The Fifth Circuit (covering Louisiana, Mississippi, and Texas) has already said ballots that are postmarked by election day but arrive after election day violate federal law based on a controversial legal theory. When another federal appellate court inevitably disagrees, this will end up in the Supreme Court.

- Requires DOGE and the Department of Homeland Security (DHS) to review voter registration files and list maintenance activities for consistency with federal requirements, using subpoenas if necessary.
    - **Bottom Line:** This will lead to a lot of publicly shared misinformation about voting records, with DOGE and DHS highlighting misunderstandings of the voter file or data entry errors as evidence of voter fraud. It may also result in list maintenance lawsuits by DOJ or third-party actors based on this information. It could also create significant privacy and security risks if personally identifying information in state voter registration records is disclosed or subject to a data breach.

- Requires DHS to provide DOJ with information on any foreign nationals who have indicated that they have registered or voted in any election (including local elections).
    - **Bottom Line**: Likely to cause confusion and legal bills for non-citizens who have legally registered to vote in local elections (where allowed) to explain their actions to DOJ.

- Orders the EAC to create new certification standards requiring the decertification of certain voting systems used by at least eight and potentially as many as 22 states.

    - The EAC is ordered to decertify vote counting systems which use a ballot in which a vote is contained within a barcode or quick-response code in the vote counting process, except where necessary to accommodate individuals with disabilities.
    - Within 180 days EAC would have to review and, if appropriate, re-certify voting systems under these new standards and rescind all previous certifications of voting equipment based on the currently accepted standards.
    - **Bottom Line:** If the EAC— an independent agency—follows this order, this would be extremely disruptive to the highly technical verification process for new certification standards (VVSG 2.0). This provision would force some or all of the counties in Delaware, Georgia, Louisiana, South Carolina, Arkansas, California, Idaho, and Illinois, and potentially other states, to replace their entire voting systems, with no funding proposed to purchase replacements.

- Directs the Attorney General to enter into information-sharing agreements with state election officials to identify cases of election fraud or other election law violations.
    - If states are unwilling to enter into such agreements or refuse to "cooperate in investigations and prosecutions," the Attorney General is directed to prioritize federal enforcement in those states and to review withholding grants that DOJ provides to the state, including for law enforcement.
    - **Bottom Line:** Some states will willingly enter into these agreements, while others will object and challenge this as coercion and overreach. States that object will litigate the issue and any retaliatory enforcement actions and grant withholding.

- Requires DOJ and DHS to "prevent all non-citizens from being involved in the administration of any Federal election, including by accessing election equipment, ballots, or any other relevant materials used in the conduct of any Federal election."
    - **Bottom Line:** One of the less important provisions. Non-citizen involvement in federal elections is already flatly restricted and severely penalized. Although this could limit non-citizens who work at election vendors.

- Directs DHS to coordinate with the EAC to review and report on the security of all electronic systems used in the voter registration and voting process and assess to what extent they are connected to "the Internet."
    - **Bottom Line:** One of the less important provisions. This is a requirement to prepare a report, not a mandate to change anything.

- Directs DOJ, in consultation with the Treasury, to prioritize enforcement of illegal election contributions by foreign nationals and lobbying by any organizations that have received federal funds.
    - **Bottom Line:** These are existing federal prohibitions, so this is just a statement to prioritize enforcement, not changing existing law.

- Orders federal agencies and the EAC to cease any remaining work on Biden's Executive Order Promoting Access to Voting (which Trump previously repealed).
    - **Bottom Line:** Nothingburger. This has already been repealed.