



Title 52 Reform Recommendations

An examination of policy and summary of recommended actions

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Introduction: *A note on enforcement*

— *Mark Vaeth*

MFEI's recommendation is to concentrate on the levers of power where the EIN may have influence in the near future. In this case, we recommend having the Federal Government beef up Election law to allow for detailed audits of States/Jurisdictions that receive HAVA money. Call it HAVA 2.0 or SOX 2.0, if you will.

The carrot-and-stick process would offer significant financial incentives to the States who agree to comply. Noncompliant States receive nothing. This approach was used years ago and worked exceedingly well to implement the 55 MPH speed limit.

Precedent is well established. As an example, the Federal Acquisition Requirements (FAR), lay out the requirements for federal acquisitions from beginning to end in minute detail. Perhaps something along those lines, called the Federal Election Requirements (FER), may be developed for elections requirements.

If implemented nationwide, FER would standardize elections, making cheating less likely and audits easier and more effective. Federal Election Requirements should include an audit clause allowing the auditors complete access to the books and records of the entity under audit. Also, FER should include a certification clause, signed by the entity and stating it is in compliance with FER.

Individual accountability is a critical element and should be built into the process. This accountability should include both financial and criminal-charge repercussions for election officials at state, county, municipal, and township levels.

Since the Elections Assistance Commission (EAC) and its Office of Inspector General (OIG) has proven to be unwilling and/or incompetent to perform an adequate audit, MFE recommends not relying on them to perform the audit of the states/jurisdictions under FER.

Instead, MFE recommends setting up a separate independent federal election audit agency, reporting directly perhaps to the U.S. Secretary of State. This too has precedent and is similar to the FAR, which established the independent Defense Contract Audit Agency (DCAA) to audit DoD contracts which were previously conducted by the separate military services.

Section 1: *Chapter 201– Voting accessibility for the elderly and handicapped*

— *Alan Dunst, Frederick Woodward*

- ❖ Recommend adding a statute that declares that any power of attorney (except medical/end-of-life) executed for a registered voter is not in force until it is registered with the state.
 - Thereafter the state will generate a postage paid postcard every five years to the individual verifying who is handling their affairs.
 - This will act as an objective measure of personal competence.
- ❖ If the representative signs and returns the postcard, or if it goes unanswered, it will be considered a request to remove the individual from the voting rolls.
- ❖ Consider restricting legal provisions allowing for possession and conveyance of absentee ballots to close (primary) family members, legal guardians, and persons who have a legal interest in caring for the voter (i.e. home caregivers etc.)
 - This could help to restrict some of the ballot trafficking that occurs in and around nursing homes, mental institutions, etc.
 - This could also involve a potential competency or basic identity test of the actual voter, to be sure they are cognitively aware of who their vote is being cast for, and that they fully consent.

Section 2: *Chapter 203– Registration and voting by absent*

uniformed services voters & overseas voters in elections for federal office

— *Frederick Woodward, Jeffrey Schaeper*

- ❖ Scale back UOCAVA eligibility requirements
- ❖ Return eligibility primarily to those who are directly involved in serving our country or who are employed in some direct and immediate service to the military, in keeping with the intent of the original 1955 legislation.
- ❖ Permanent (retirement) overseas residents may vote in Federal elections only. They shall not vote in state or local elections.
- ❖ Separate UOCAVA into two parts: active military and civilian.
- ❖ Temporary assigned overseas residents may vote for all offices in their state.
- ❖ ID and citizenship requirements apply and must be in place.
- ❖ Eliminate affidavit or other exceptions of any kind to the ID requirement.
- ❖ No electronic voting or registration shall be allowed for nonmilitary overseas persons.
- ❖ Active military registrants, once confirmed, need not be subject to further identity, residency, or eligibility checks.
- ❖ Electronic voting using the military's CAC system shall be available only to active US military service members.
- ❖ Military families and civilians must meet regular eligibility requirements and return hand-signed (wet signature) paper ballots via USPS.
- ❖ Overseas citizens must first have registered in person at their last place of residency before leaving the country.
- ❖ Overseas citizens must have resided in the home state they attempt to register in and have proof of that residency in order to vote.
- ❖ Verify identity, citizenship, and residency before registering overseas civilians or issuing them a ballot.
- ❖ Require both FPCA and FWAB applicants to verify their identities.
- ❖ Require applicants to prove residency in the state in which they are registering to vote.
- ❖ Require verification of citizenship.
- ❖ Apply these checks retroactively to any previously unverified registrant.
- ❖ Absentee ballots shall be available to overseas citizens only if they registered before leaving the country.
- ❖ The EAC should change the Federal Post Card Application to require identity and citizenship verification.
- ❖ Remove the option to automatically register and receive ballots for future elections.

- ❖ Remove Question number 5 on the Federal Postcard Application, which allows a voter who registers and applies to receive ballots for future elections via the existing mechanism.
- ❖ When a person files for a permanent change of address with the U.S. Postal Service via the National Change of Address (NCOA), that person should automatically be able to cancel his or her voter registration in their moved-from state and indicate if he or she has an interest in applying for registration in their moved-to state.
- ❖ Federal ID cards should contain the designation of citizen or non-citizen, as should SSNs.
- ❖ Eliminate affidavit or other exceptions of any kind to ID requirements.
- ❖ Require verification of citizenship and immigration eligibility of applicants via 8 USC 1373.
- ❖ Ensure definitive citizenship match for clerks to count UOCAVA ballots.
- ❖ When a person moves to another state and surrenders his or her driver's license while applying for a Driver's License in their new state of residency, the following must occur:
 - The moved-to state must notify the moved-from state of the issuance of that person's new driver's license.
 - If the process involves registering the applicant to vote, the moved-to state must notify the moved-from state that the voter has changed their state of voter registration, and the moved-from state must remove the registration.

Section 3: Chapter 205– National Voter Registration Act

—*Jeffrey Schaeper, Alan Dunst, Frederick Woodward*

- ❖ No automatic mail-in or online registrations; if the prospective voter is unable to present himself to the local clerk or SoS office, he may apply by phone or online for a hardship dispensation through which a notarized registration will be accepted through the mail or designated registration agency (§ 20508)
- ❖ The prospective voter must demonstrate to the clerk, SoS official or notary that he is in possession of credentials proving citizenship, address of residence and age at the time of registration
- ❖ The state DMVs shall have access to, and shall check the state's QVF data for the individual's name as part of the registration process at the time of driver license application or renewal. (§ 20504)
- ❖ In addition to current provisions, a voter may be removed from the rolls if the reported residence property owner attests that the individual no longer resides at the location and the voter does not return the notice sent by the clerk. (§ 20507)
- ❖ Acceptable documents to register to vote:
 - State issued photo ID required
 - Proof of US citizenship via notarized birth certificate or state-issued
 - Naturalization card.
 - Proof of residency shall be determined by the address on your state-issued ID
 - All of the above documents should be based on verification of identity and citizenship (i.e. no Motor Voting documents to be accepted.)
- ❖ No Registration of voters without their consent– Opt in vs. opt out registration.
- ❖ No online registrations. A registrant must be seen at least once in the process of registering.
- ❖ Make deregistering easy via an online form along with instructions for optional in-person or mail-in deregistration.
- ❖ Reconsider the ability to vote by dual citizens.
- ❖ When a person files for a permanent change of address with the U.S. Postal Service via the National Change of Address (NCOA), that person should Automatically cancel his voter registration in his moved-from state and indicate if he has an interest in applying for registration in his moved-to state.
- ❖ When a person moves to another state and surrenders his driver's license while applying for a license in their new state of residency, the following must occur:
 - The moved-to state must notify the moved-from state of the issuance of that person's new driver's license.
 - If the process involves registering the applicant to vote, the moved-to state must notify the moved-from state that the voter has changed their state of voter registration, and the moved-from state must remove the registration.

- ❖ See U.S. Rep. Lisa McClain's (R) introduced Voter Registration Efficiency Act, H.R. 2566. See Michigan [legislation](#).
- ❖ College students on their family's health insurance plan may vote only in their home district, not at their school's district.
- ❖ No same-day registration and voting unless and until computer systems are capable of processing and disseminating the information real time to county, township, and municipal clerks.
- ❖ Military agencies like the Veterans Administration should be able to register voters.
- ❖ DMVs at state level should be able to access to alien registration and Social Security records
- ❖ Revoke/replace EO 14019, which forces government workers to register voters. No agency that does not issue government photo IDs should be able to register individuals to vote.
- ❖ The government, its agents, and NGO-affiliates should be prohibited from conducting get-out-the-vote (GOTV) and voter registration activities.
- ❖ Violators of federal and state election law should be prosecuted to the fullest extent of the law.
- ❖ Consider raising penalties for cases in which intent to commit fraud can be proven.
- ❖ Maintain citizenship data accessibility for election officials to compare to voter rolls
- ❖ Preserve and expand DMVs at state level access to alien registration and Social Security records.
 - Model along SOX guidelines.
 - Eliminate ERIC and other outside voter information gathering enterprises.
- ❖ Ban National Popular Vote for general & primary elections
- ❖ Ban Rank Choice Voting for general & primary elections
- ❖ Prisons and county jails should provide an annual list of incarcerated felons for removal from the voter rolls. This list must be made available to the public.

Section 4: *Chapter 207– Federal Election Records*

— *Mark Vaeth, Alan Dunst, Frederick Woodward*

- ❖ Enumerate all critical records that would be required to be maintained, so there will be no excuses for not maintaining the records.
- ❖ Obvious records would be all issued ballots (even spoiled ballots), the tracking slip filled out when voting in person, absentee ballot applications, absentee envelopes, current policy and procedures at the time of election, QVF at the time of election, etc.
- ❖ Ensure all non-sensitive ballot material is accessible and available for any and all FOIA requests regarding it.
- ❖ Require that reasonable requests for critical election records which are not burdensome are answered promptly at minimal or no cost.
- ❖ Other requests which could be time consuming should be completed at a reasonable cost and in a timely manner. This law (Pub. L. 86–449, title III, § 301, May 6, 1960, 74 Stat. 88.) was written in 1960, and the current dollar penalty is far too low to be a deterrent, at only \$1,000.
- ❖ Consider increasing the penalty to \$10,000 per occurrence as a better deterrence and add a provision to adjust according to yearly CPI data to keep pace with inflation.
- ❖ Post-election audits- standards:
 - Have an unalterable historical archive of the voter names that closely match the certified ballots of the election at the jurisdiction level.
 - Require the US Census Bureau retains it indefinitely.

Section 5: Chapter 209– Election administration improvement

— *Patrice Johnson, Mark Vaeth, Frederick Woodward, Jeffrey Schaeper*

- ❖ Election certification shall require that all included precincts qualify for recount. Any precinct that does not qualify for recount (e.g., by virtue of significant ballot count discrepancy or incorrectly sealed or compromised document container) shall be deemed uncertifiable and the election for the jurisdiction shall be uncertifiable until any discrepancy has been resolved or a special election can take place, unless it is demonstrated that the total prospective votes of the uncertifiable precinct(s) (as determined by total number of registered voters in the precinct(s)) would be insufficient to change the results of ANY race or proposal vote.
- ❖ Make all relevant federal election data available to state and local election officials.
- ❖ Ensure state and local officials have access to all relevant interstate databases with no access fees.
- ❖ Institute criminal penalties for NGO executives whose organizations knowingly submit false registrations.
- ❖ Promulgate a duty to verify citizenship/immigration status in case of doubt, utilizing 8 USC 1373's mechanism.
- ❖ Prohibit registration of voters without their consent.
- ❖ Prohibit sending ballots to voters without their consent.
- ❖ All ballots must be printed on secure paper products bearing secure watermarks. This includes print on demand and election day ballots.
- ❖ Deadline for the return of ballots should be the time the polls close on election day with no excuses. Election day should be set by law so everyone knows well in advance.
- ❖ Use of all-mail voting should be discouraged and or banned as much as possible.
- ❖ Return to previously established mode of absentee voting where a person has to justify the need (e.g. out of town, old, etc.) to vote absentee.
- ❖ Chain of custody of ballots should be described in detail.
- ❖ Presence of transparency / citizen observers should be encouraged, along with consideration of enforcement of fines/jail time for violations.
- ❖ Fines & possible jail time for officials who allow/promote a lack of parity for poll workers and officials between political parties.
- ❖ Certification of election results – standards & accepted procedures should be described in detail.
- ❖ Periodic robust post election audits should be done of states and jurisdictions to ensure compliance with law.
- ❖ Mechanism for forensic recounts and audits should be laid out and standardized.
- ❖ Eliminate CISA role in elections:
 - Agree by writing such that CISA is removed from a rule making role.

- Put in FER
- ❖ Certification process for voting equipment:
 - No non-US manufactured electronics in the machine.
 - Put in FER
- ❖ Standards for software:
 - Open Source/auditable by outside parties
 - Put in FER
- ❖ Prohibition - should certain voting systems be banned, such as touchscreen, electronic ballot marking devices, QR codes, etc?
 - Yes, to all except for the disabled.
- ❖ Testing of voting systems pre-election:
 - Forensic Audit of tabulator software code before loading onto the machines.
- ❖ Security measures for voting technology:
 - No internet connectivity or capacity for connectivity.
- ❖ Non-technology / manual verification of technological procedures:
 - Look at the manuals from the vendor.
 - Review settings on machines for potential internet settings
 - Ensure no back-door “patch” entry installed.
- ❖ The EAC/EAC OIG has been a disappointment in executing its audit responsibilities. The HAVA does give the EAC/EAC OIG audit capabilities which it hasn’t fully utilized over the years. It could be because of a lack of funding, lack of training, and/or an unwillingness to perform the required audits. For example, MFE’s request for an audit of Michigan’s HAVA grants to the EAC OIG went on deaf ears. Even the ERIC costs were not questioned in the final audit report issued by the EAC OIG. See this [House Oversight Report](#).
- ❖ MFE also provided info to the Farm Credit Administration (FCA) OIG doing the peer review of the EAC OIG expressing our concerns. FCA OIG found no issues with EAC OIG systems [House Oversight Peer Review Results](#)
- ❖ Implement a uniform way for civilians to report issues that will get a response.
- ❖ Regarding the USPS, their Business Model has changed.
 - Should they be as integral a part of the election apparatus as they currently are?
 - Consider adding FedEx, UPS, DHL as acceptable carriers.
- ❖ Send absentee ballots via certified mail with undeliverable ballots returned directly to the clerk.
- ❖ Undeliverable ballot registrations are immediately put into challenged status.
- ❖ Voter must show up in person to “cure” the issue
- ❖ Deadline for return of ballots is election day. Late ballots are rejected with no appeal.
- ❖ Voters should be able to track their ballots as they can a package delivery.
- ❖ Returned ballots must be processed by election workers. No outside processing like Runbeck.
- ❖ Certification of election results – standards.
- ❖ Role of canvassers should not be strictly “ministerial.”

- ❖ Allow winning and losing candidates for office to choose select precincts for quality audits.
- ❖ No entity involved in the election process or rule making should be in an audit.
- ❖ Suggest an outside Office of Inspector General do the audits.
 - Use FER guidelines to audit.
- ❖ Reduce early voting to 5 days with some days having evening hours.
- ❖ Ensure application of equal timeframes and processes consistently throughout states. Example: Detroit selected 19 days early voting. The rest of the state chose 9 days.
- ❖ The jurisdiction must announce two hours after close of polls how many unprocessed ballots are on hand to be processed.
- ❖ Limit time to count ballots to 3 days post-election
- ❖ Continuous counting. No stops for the day.
- ❖ Drop boxes: Make all ballot drop boxes illegal unless within the proper government building and within view of the local or township clerk.
 - All drop boxes are video monitored, recorded and stored for 30 days after the election certification.
 - All drop boxes video feeds are live streamed & publicly available to view, record, and store.
- ❖ A drop box cannot have ballots deposited from a car. A person must leave a car to deposit ballots in a drop box.
- ❖ A drop box must have a narrow slot to eliminate a large deposit of ballots to be put in the drop box at the same time.