

Can mail-in voting save the 2020 election?

As COVID-19 makes traditional voting dangerous, states are looking at universal mail-in balloting. Utah is one of five Western states with a head start, but others face tough choices that could leave voters in the cold.

By Matthew Brown

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SALT LAKE CITY — Utah and four other Western states that embraced statewide voting by mail years ago have been considered more like outliers than trendsetters in electoral politics.

But with the coronavirus pandemic upending one of democracy's fundamental rituals, election officials in Utah and Washington, Oregon, Colorado and Hawaii now have information other states need in order to comply with social distancing orders while letting people vote.

"It started on Super Tuesday," said Justin Lee, director of elections for Utah, recalling when journalists and election officials from outside the state started asking how to pull off a vote-by-mail election in a matter of months.

Those asking hope to avoid the chaos that took place in Wisconsin this week that could be a harbinger for states that haven't implemented voting by mail on a large scale. It's not just the logistics of expanding a small-scale vote-by-mail system that can be overwhelming. Even well-intentioned efforts to postpone elections for a few weeks so officials can sort out their options can be complicated by partisan politics.

In Wisconsin, Democratic Gov. Tony Evers' attempt to postpone the state's primary election and extend the deadline to receive mail-in ballots was rebuffed by a Republican-controlled Legislature and then by conservative majorities on the state and U.S. supreme courts.

"This is a warning sign for November and a problem that states need to take all steps to avoid," Wendy Weiser, director of the Brennan Center for Justice's democracy program, told the Associated Press.

"Americans should not have to choose between their health and their right to vote."

Scenes of long lines of voters and poll workers wearing masks in Wisconsin underscored the reality that an entrenched voting regimen can't be changed with the flip of a switch. Pulling off a universal mail-in primary under the uncertain circumstances of a pandemic poses some insurmountable challenges for counties and states, experts say.



Poll workers Heidi Ender, left, and Carol Hedrington work from behind shields as voters, ignoring a stay-at-home order over the coronavirus threat, cast ballots in the state's presidential primary election, Tuesday, April 7, 2020, in Eau Claire, Wis. *Dan Reiland/The Eau Claire Leader-Telegram via Associated Press*

"I think the ideal amount of time to have to gear up for a vote-by-mail election is probably about two years, a full election cycle of time and adaptation," Damon Cann, a political scientist at Utah State University who studies election administration, said matter-of-factly. He then hesitatingly offered this bit of hope: "We're finding that we can adapt to a lot of circumstances more quickly than we might have normally thought, in the context of this crisis."

The to-do list is daunting, from changing voting laws and mailing the right ballot to every voter in every precinct to setting up a ballot verification process and acquiring equipment that can scan thousands, if not millions, of good-old-fashioned paper ballots.

And there's one more detail that Lee said Utah still hasn't resolved, even after the eight years it took for every county to successfully mail ballots to every voter and count those that were returned.

"Honestly, the biggest complaint that we get is people don't get their 'I Voted' sticker in the mail," Lee said. "If we could nail that one down and figure it out, I think we will have taken care of most of the complaints."

But Lee said he has participated in weekly conference calls the past month on more serious questions and issues, where he and his counterparts in other states share ideas on how pull off an election during a pandemic that has already claimed about 11,000 lives in the United States.

Loosen up

While only five states mail all election ballots to every registered voter in every election, other states have some experience with voting by mail. But some make it easier than others.

For example, 16 states require an affidavit explaining why a person is unable to vote in person. Seven of them waive the excuse for voters over a certain age (usually 65), according to a survey by Vote At Home, which advocates for unrestricted mail-in balloting.

Of the remaining 34 states and Washington, D.C., 26 require voters to request a mail-in ballot and nine require a separate request for each election. Others require voters to apply annually, while some make the choice permanent. Only eight states — including the five with universal vote-by-mail — let people make the request when registering to vote.

According to a survey of states by the National Conference of State Legislatures, 16 states allow voters to mail in ballots for only certain types of elections or within certain jurisdictions, such as a county. Experts agree that the first hurdle to expanding a state's vote-by-mail system is to either loosen or eliminate restrictions such as excuse affidavits. In some states, the governor or even local election officials can do that, but in others, like Wisconsin, it takes an act of the Legislature.

To buy time to make those adjustments and comply with statewide social distancing rules, at least 12 states have postponed primary elections and three others have postponed special congressional elections, according to a briefing paper by the National Association of Secretaries of State.

Nevada is one state taking swift action to loosen its voting rules, dropping the requirement that voters request a mail-in ballot and mailing all registered voters an absentee ballot for its June 9 primary election. Ballots can be mailed free of charge or dropped off at a designated county location, Nevada Secretary of State Barbara Cegavske announced in late March, according to The Nevada Independent. But mailing out ballots takes more than just stuffing envelopes. Cann and Lee said voter rolls need to be updated to make sure the right ballots go to the right voters, which can be complicated in large counties that have school bond or water board elections in one district, but not another. Contracts with printers that are up to task need to be drawn up and the cost of postage covered, including the return.

Additional resources are needed to process and verify completed ballots, notifying voters whose ballots have been rejected and, finally, tallying the votes.

So far, Congress hasn't helped much. The \$2 trillion emergency aid package passed last month included \$400 million to help states ensure a safe and accurate election. Democrats, who asked for \$2 billion, will take another shot at securing more funding in the next stimulus bill, which is under discussion.

Wisconsin tried to expand its absentee ballot option, but it didn't work out well under the tight time frame. Nearly 1.3 million absentee ballots were requested but only about 57% had been returned as of Monday. It's unclear how many of the outstanding 539,000 ballots will meet Tuesday's postmark deadline.

Louisiana, which moved its primary from early April to June 20, is letting up on its rules for older voters, inviting some 325,000 residents 65 and older to use a mail-in ballot, and exploring other ways to selectively expand its limited vote-by-mail option, Secretary of State Kyle Ardoin told the Seattle Times. "But I'm not sure we can go to an all vote-by-mail program," he said.

'A menu of options'

While election officials throughout the country are turning to vote-by-mail as a safe alternative, voting rights advocates warn that the option should not be used as a trade-off that drastically cuts back or eliminates in-person voting.

"An important part of our advocacy is to make sure that county clerks are maintaining both systems, giving voters a menu of options to choose from to make it the most accessible process possible," said Niki Venugopal, voting rights coordinator for the ACLU of Utah.

She praises Utah's universal vote-by-mail system that research has shown increases voter participation, but notes voting by mail can also be an obstacle for some people and curtail participation when election officials don't have a well-managed ballot processing system.

The ACLU has taken legal action in several states where little to no notification is given to voters whose signatures don't match what's in the state database or whose ballot was otherwise disqualified. While

she said some counties do little more than send a small postcard notifying voters of the status of their ballot, Venugopal likes Utah's elections website where voters can track the progress of their ballot. The organization also successfully sued San Juan County, Utah, to require more in-person polling places for voters on the sprawling Navajo Nation reservation, where mail delivery is unreliable and many voters need help reading the ballot.

Vote-by-mail can also backfire in more densely populated areas. Venugopal said ACLU's monitoring of the Super Tuesday primary in Weber County found some Ogden Valley voters who didn't get a ballot in the mail or who needed help filling it out were unable to make the drive through Weber Canyon at night to the single polling station officials opened in downtown Ogden.

Postage can be an obstacle — although Venugopal said the postal service has a "no stamp, no problem" policy, delivering ballots that don't have correct postage — and a myriad of other things can make it difficult to even get the ballot to a drop-off box.

"The first time I voted by mail, my partner accidentally spilled water all over the ballot, so I had to vote in person ... so having the option to do both was important to me," Venugopal said.

As the Wisconsin experience has shown, expanding the mail-in option in the throes of a crisis can create problems of its own, where voters suffer most. To be sure, partisan politics and the fact that local races were also on the ballot with presidential hopefuls contributed to the standoff in Wisconsin over whether to postpone the election or at least extend the deadline for absentee ballots.

When the Supreme Court voted 5-4 to block a lower court ruling that would have extended Wisconsin's absentee ballot deadline to April 13, the majority said they were upholding the court's long-standing opposition to federal judges changing election procedures at the last minute. But Justice Ruth Bader Ginsburg wrote in her dissent that voters were the losers.

Ginsburg said the coronavirus outbreak had caused a surge in absentee ballot requests and thousands of voters who requested them would not receive their ballots by Tuesday's deadline to have them postmarked. "The Court's order, I fear, will result in massive disenfranchisement."