Voting by Mail, Absentee Voting, and The Effects of the Coronavirus on the Elections

Potential impact of the coronavirus on the 2020 voting process.

April 16, 2020

Producer
ABA Governmental Affairs Office
The coronavirus pandemic has led to state proposals for increasing voting by mail

Amid concerns about the impact of the coronavirus pandemic on voters’ safety, states have pushed back elections and lawmakers have proposed expanding voting by mail.

**Current landscape**

- Only **5 states** (WA, OR, UT, CO, and HI) currently conduct all-mail voting for all elections in all state jurisdictions.
- **Twenty one states** have provisions allowing certain elections to be conducted by mail or conduct all-mail elections in certain jurisdictions.
- However, many states **exclude federal primaries and general elections** from all-mail voting.
- **33 states and the District of Columbia do not require an excuse** to vote with an absentee ballot or by mail.
- Absentee ballots still require the voter to **request the ballot and pay for postage** to return the ballot by mail.

**Recent state action for voting by mail**

- **After Ohio** announced a postponed March 17th primary, Secretary of State Frank LaRose proposed sending voters postage-paid absentee ballots.
- The **Alaska** Democratic Party canceled in-person voting for its April 4th primary and began mailing ballots to voters in addition to making them available online. The deadline for receiving ballots was also extended.
- **Wyoming** suspended the in-person portion of their Democratic caucuses, originally scheduled for April 4th, and will send ballots in the mail to voters. Ballots received by April 17 will be counted.
- **Indiana** postponed its primary to June 2nd, originally scheduled for May 5th, and announced that the state would expand the option to vote by mail to all voters.
- **Maryland** stated that officials did not believe conducting the entire election by mail would work logistically for the postponed June 2nd, although it had been considered. The special election for MD-7 would be an all-mail election.
- **Rhode Island** postponed its primary to June 2nd and the secretary of state announced that all registered voters will receive a postage-paid mail ballot application.

The coronavirus outbreak has caused 16 states to postpone or alter their presidential primaries

### Presidential primary calendar

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<th>February</th>
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- **February 1:** IA
- **February 3:** IA
- **February 11:** NH
- **February 22:** NV (D)
- **February 29:** SC (D)
- **March 3:** Super Tuesday:
  - AL, American Samoa (D), AR, CA, CO, MA, ME, MN, NC, OK, TN, TX, UT, VT, VA (D), Dems Abroad (D)
- **March 10:** ID, MI, MS, MO, ND, WA
- **March 12:** Virgin Islands (R)
- **March 14:** Guam (R), Northern Mariana (D), WY (R)
- **March 15:** Northern Mariana (R)
- **March 17:** AZ (D), FL, IL
- **March 18:** American Samoa (R)
- **March 19:** OR, GA
- **April 7:** WI
- **April 10:** AK (D) by mail
- **April 17:** WY (D) by mail
- **April 26:** Puerto Rico (D)
- **April 28:** OH
- **May 2:** KS (D), Guam (D)
- **May 9:** WY (R)
- **May 12:** NE
- **May 19:** OR, GA
- **May 22:** HI (D) by mail
- **June 2:** CT, DC, DE, IN, MT, MD, NM, PA, RI, SD
- **June 6:** Virgin Islands (D)
- **June 7:** Puerto Rico (R)
- **June 9:** WV
- **June 20:** LA
- **June 23:** KY, NY

### Conventions

- **Democratic National Convention:** August 17-20
- **Republican National Convention:** August 24-27

**States that have cancelled the Republican primary or caucus:**
AK, AZ, HI, KS, NV, SC, VA

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**Sources:** 270 to Win, The New York Times

Ashley Thieme | Slide last updated on: April 14, 2020
21 states currently have provisions allowing certain elections to be conducted by mail

States with all-mail elections

- Ballots mailed to all voters for all elections
- Some elections can be run entirely mail
- Counties opt to use all-mail elections
- States permit jurisdictions designated as all-mail based on population

In 2020, more than 50% of California’s voting population live in counties that are permitted to conduct all-mail elections.

All-mail elections allow every registered voter to receive and send in a ballot by mail. However, states that have all-mail elections still allow voters to vote in-person in early voting or on election day.

Some states currently allow only certain elections by mail.

States such as Arizona and Florida allow local or special district level to be conducted mail.

Other states such as Maryland and Wyoming allow certain special elections to be conducted by mail as long as they do not coincide with a primary, general, or statewide special election.

Sources: National Conference of State Legislatures

Ashley Thieme | Slide last updated on: March 24, 2020
33 states and the District of Columbia do not require an excuse to vote with an absentee ballot or by mail

No excuse absentee voting

All states will send an absentee ballot to voters that request one. However, in one-third of the states an excuse is required to vote absentee. Accepted excuses vary from state-to-state but can include:

- Illness or disability
- Religious belief
- Work shift during voting hours
- Persons older than a certain age
- Student living outside of county
- Out of county on election day

*Rhode Island allows for a number of excuses to vote absentee but allows voters to receive a mail ballot for “no specific reason”

Sources: National Conference of State Legislatures

Ashley Thieme | Slide last updated on: March 24, 2020
At least fourteen states have expanded voting options for spring and summer elections due to COVID-19

Vote by mail rules for federal elections
AS OF APRIL 15, 2020

- All-mail elections
- No-excuse absentee voting
- All-mail elections in some counties
- Excuse required for absentee voting
- Providing no-excuse absentee ballots due to COVID-19

8 states that typically require an excuse are allowing all voters access to no-excuse absentee ballots for upcoming spring and summer elections

* States that have approved all-mail elections for an upcoming primary or special election
** MD will hold mostly all-mail elections this spring/summer, but one voting center per county will be open

Sources: NCSL; Axios; Ballotpedia.

Slide last updated on: April 15, 2020
Federal lawmakers have also indicated support for increased voting by mail ahead of the 2020 election

H.R. 748: Middle Class Health Benefits Repeal Act (Vehicle for third coronavirus package)
- The Senate stimulus package, considered the phase 3 bill for coronavirus response from Congress, also included $400 million in state grants to help prepare for the 2020 election cycle including:
  - Increasing the ability to vote by mail
  - Expanding early voting and online registration
  - Increasing the safety of voting in-person by providing additional voting facilities and more poll workers

S.3529: A bill to require States to establish contingency plans for the conduct of elections for Federal office in response to national disasters and emergencies, and for other purposes
Sponsor: Sen. Amy Klobuchar (D-MN)
- Ensures voters have access to early in-person voting and no-excuse absentee vote-by-mail
- Requires states to establish contingency plans for emergencies and establish an initiative to improve safety of voters and provide voters with self-sealing envelopes with prepaid postage for all voters who request a voter registration or absentee ballot application or an absentee ballot

Sources: Congress.gov, The Hill, Senator Amy Klobuchar, CNN
**Sens. Amy Klobuchar and Ron Wyden introduced legislation in March to federally mandate expanding voting options**

**S.3529 — Natural Disaster and Emergency Ballot Act (NDEBA) of 2020**

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<th>Introduced</th>
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<th>Passed House</th>
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**Bill overview**
- Ensures all states have at least a 20-day early in-person voting period and a no-excuse absentee vote-by-mail option
- Requires states to begin processing, but not counting, early votes 14 days before Election Day to avoid delays
- Guarantees the counting of all absentee ballots postmarked or signed before the close of polls on Election Day and received within ten days of Election Day
- Requires all voter registration applications submitted by mail or online at least 21 days prior to Election Day be deemed valid; states can choose a deadline closer to Election Day
- Requires states to provide downloadable and printable absentee ballots to voters who request but do not receive an absentee ballot by Election Day
- Requires a specific signature curing procedure for voters (in most states, signature verification is used to verify that an absentee ballot is sent by the intended voter)
- Authorizes necessary funds for reimbursing states for the costs of implementing the act
- Provides an additional $3 million to the U.S. Election Assistance Commission (EAC)

**Status in Congress**
- **Senate:** Read twice and referred to the Committee on Rules and Administration (3/18/20)

**Sen. Warren’s proposal**
- Sen. Elizabeth Warren released her own proposal at the beginning of April
- Though she supports passage of the NDEBA, she believes Congress should go further and require all states to mail every registered voter a ballot with pre-paid postage and a self-sealing envelope

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Sources: Congress.gov; Office of Senator Ron Wyden.

Slide last updated on: April 15, 2020
There are many policy options that could decrease crowding on Election Day

For states with excuse-required absentee ballots
- Expanding the list of acceptable excuses for receiving a mailed ballot in states that currently require an excuse
- Implementing no-excuse absentee ballots
- Prepare for an increase absentee ballots, regardless of expanding availability

For states with early voting
- Increasing the length of early in-person voting periods
- Keeping early voting locations open on Election Day
- Expanding the dates of early voting to include voting on the weekends and expanding hours of operation

For all states
- Relaxing rules associated with absentee ballot submission (e.g. requiring notarization)
- Consolidating polling locations to decrease the amount of poll workers needed
- Expanding curbside voting, whereby poll workers bring a ballot or ballot-marking device to the voter’s car, which is sometimes used for voters with disabilities

Debate on elections reform

**Opponents**
- President Trump has argued that mailed ballots result in increased voter fraud and will ultimately harm the Republican party
- Other members of the GOP are more opposed to the federal government dictating elections laws and taking power away from the states, where they argue it belongs

**Supporters**
- Democrats and elections experts point out that using mailed ballots does not cause voter fraud and officials must ensure people are able to vote safely
- Despite comments by Trump, the RNC has mailed voters urging them to protect themselves and use mailed ballots, and GOP governors have begun increasing access to mailed ballots in their states


Slide last updated on: April 15, 2020