



Voting by Mail – The Right Way and The Wrong Way

- Statistics show that voters prefer to vote in person. Voting in person is always the more secure method of voting. A voter knows that his or her ballot will count upon leaving the polling place, whereas many things can go wrong with mail ballots.
 - Even during the COVID-19 pandemic, 59% of voters say they prefer to vote in person.¹
 - Historically, over 90% of Nevada voters have voted in person.²
- Voting by mail (VBM) should be **an option** for voters who cannot vote in person, such as elderly voters and members of the military. However, VBM should always be done in an absentee format where the voter **requests a ballot** to vote by mail.
- Generally speaking, Florida does VBM the right way and Nevada does it the wrong way.

Examples from Florida and Nevada

Tested and Bipartisan vs. Rushed in a Partisan Manner

- Florida passed its VBM procedures through the normal legislative process well in advance of an election with all sides and stakeholders contributing input.
- Nevada passed its new voting system one hour after receiving the proposal (AB 4), a single-spaced, 60-page bill, fewer than 100 days before the election.³
 - There was no input from the minority party.
 - There was no input from or consultation with the Secretary of State.

Requested Ballots vs. Ballots Automatically Sent, Some to Bad Addresses

- In Florida the voter has to request to VBM. Often this request needs to be signed or otherwise verified. This safeguard prevents ballots being sent to deceased voters, voters who have moved, or fraudulent registrations and allows for signature verification.
- In Clark County, Nevada, ballots were sent to inactive registrations during the recent VBM primary even though election officials estimated at least 90 percent were bad addresses.⁴ Unused ballots were found in large stacks. This will be replicated around the state under the new law.

Deadline to Return Mail Ballot on Election Day vs. Voting after the Election

- In Florida, the deadline to return mail ballots is 7:00 p.m. on election night, thus ensuring every ballot is cast on or before Election Day.⁵
- In Nevada, the deadline to return mail ballots is after Election Day, even when those ballots lack objective evidence that voters cast them on or before Election Day. Under AB 4, it will be possible to vote in Nevada after Election Day.



Constitutional Concerns: Equal Protection vs. Different Standards Depending on Where You Live in the State

- Regarding Florida, in 2000 the Supreme Court ruled in the 7-2 portion of *Bush v. Gore*: there is a “minimum requirement for nonarbitrary treatment of voters necessary to secure the fundamental right” to vote, ensuring that all voters in Florida are governed by substantially uniform standards.⁶
- In Nevada under AB 4, there will be fewer polling places for rural voters than urban voters. Counties will determine individual procedures for counting VBM ballots in some circumstances, creating differing standards across the state. Depending on where voters live, they will be held to different standards and have varying access to polling locations.

Ballot Harvesting: Limitations to Protect Voters vs. No Protections for Voters

- In Florida, an individual can only return two ballots not belonging to the person or an immediate family member if that individual is in any way compensated. An individual acting as an authorized designee may pick up no more than two ballots for persons who are not immediate family members. The individual must present identification and a signed affidavit and it must be within 9 days before an election.⁷
- In Nevada, there are now no limits or restrictions on ballot harvesting. Ballot harvesters are free to manipulate or coerce voters, traffic as many ballots as they want without the written consent of voters, and risk spreading COVID-19 in the process of collecting ballots with no accountability.

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¹ Kendall Karson and Meg Cunningham, “I don't trust it': Is Trump's false rhetoric on vote-by-mail resonating?,” *ABC News*, July 21, 2020, <https://abcnews.go.com/Politics/trust-trumps-false-rhetoric-vote-mail-resonating/story?id=71887848>.

² See, e.g., U.S. Election Assistance Commission, Election Administration and Voting Survey, 2018 Comprehensive Report, A Report to the 116th Congress, at 30; U.S. Election Assistance Commission, The Election Administration and Voting Survey, 2016 Comprehensive Report, A Report to the 115th Congress, at 24.

³ A.B. 4, Nevada Leg., 32d Special Session, Ch. 3 (enacted Aug. 3, 2020).

⁴ Riley Snyder, “Democrats drop lawsuit against planned all-mail primary election after Clark County agrees to more voting sites, other concessions,” *The Nevada Independent*, May 5, 2020, <https://thenevadaindependent.com/article/clark-county-election-officials-to-expand-in-person-voting-for-primary-election-mail-ballots-to-inactive-voters>.

⁵ Fla. Stat. Ann. § 101.67 (2019).

⁶ *Bush v. Gore*, 531 U.S. 98, 105 (2000).

⁷ Fla. Stat. Ann. §§ 101.62, 104.0616 (2019).