

Testimony of

LEE ROWLAND

**Counsel, Democracy Program
Brennan Center for Justice at NYU School of Law**

Before the Assembly Legislative Operations and Elections Committee

March 22, 2011

I. Introduction

I write on behalf of the Brennan Center for Justice at NYU School of Law (“Brennan Center”) to submit this testimony in strong support of AB108, as amended¹ – a bill to modernize Nevada’s voter registration system. The Brennan Center is a non-partisan public policy and law institute that pursues a vision of inclusive and effective democracy. Toward that end, the Center’s Democracy Program researches and promotes reforms that improve election administration, eliminate barriers to full and equal political participation, and foster responsive and responsible governance.² **Voter Registration Modernization** offers incredible opportunities to make voting registration easier, faster, and more reliable for voters, all while saving time, money, and resources for the state and making the voting system more secure.

Our democracy is a source of pride and is based on the principle of civic participation. But while we have regularly upgraded many components of our election system to keep pace with both American technology and American demography, the voter registration system stands out as a nineteenth-century anomaly, rooted firmly in handwritten, paper-based procedures. Election officials, in turn, face an expensive and inefficient crush of new registrants every election cycle. High mobility places severe

¹ The Brennan Center supports Election-Day Registration, which the original draft of AB 108 proposes. We encourage you to adopt the comprehensive voter registration amendment which will be introduced March 22, 2011, and presented by Lee Rowland from the Brennan Center for Justice.

² The Brennan Center has been among the national leaders in encouraging procedures that modernize our voter registration system. In addition to our direct work with state and federal officials, we have produced at least three major reports and six further briefing papers chronicling the need for modernization, the accuracy and efficiency savings that would result, and the availability of models to point the way.

burdens on election officials, a particularly salient issue for Nevada and Clark County. It is time for an upgrade. AB 108, as amended, can provide this upgrade.

Experts, election officials, and policymakers across the country are recognizing the need to modernize our outdated, paper-based voter registration systems. Those systems are overly costly, inefficient, error-prone, and can unnecessarily exclude eligible voters at the polls. Fortunately, new technologies point the way to an improved Twenty-First Century voter registration system. As more and more states are discovering, a modern voter registration system boosts registration rates, increases the accuracy of the voter rolls, and reduces the opportunity for fraud, while saving millions of dollars a year.

We urge you to adopt this comprehensive amendment to AB 108, which will benefit voters, assist election officials, and make Nevada a model for voter registration.

II. Effects of the Amendment to AB108

AB 108, as amended, will create:

- One-stop **automated voter registration** of consenting eligible citizens who interact with a range of government agencies.
- **Portable voter registration**, so that Nevada voters stay registered even if they move within the state.
- A statewide **online voter interface** where Nevadans can register to vote, make sure their registration is accurate, and find polling place information.
- **Election Day registration** available at polling places to correct for any errors and omissions in the registration process ensure that every eligible Nevada citizen who wants to vote may register.

a. Automated Voter Registration at State Agencies

Automated registration leverages existing tools and resources to ensure that all eligible citizens are registered to vote, and that the registration rolls are accurate, without the need to submit redundant paper forms. Many state agencies regularly interact with eligible citizens and gather reliable records about those citizens. These may include motor vehicle agencies, public assistance agencies, disability agencies, and educational agencies, among others. Automated voter registration is a simple upgrade of existing policies of providing voter registration services at these agencies, using existing records and systems to more accurately provide that service. Once agencies identify eligible citizens who wish to be registered, they simply forward data records electronically through a secure interface to election authorities, who in turn assess eligibility, compare the records to the existing statewide voter rolls, and register eligible voters without duplicative paperwork and data entry. The data transfer process will not supplant any list maintenance or double-check procedures that election officials now undertake whenever they receive a paper registration form. In all, the automation increases accuracy, security, and efficiency: the need for costly data entry decreases, the reliability of the information

increases, and the flow of registration records is flattened and spread across the entire election cycle rather than concentrated in the final push to Election Day.

The amendment to AB 108 is designed to include as many agencies its scope as possible. It specifically delineates the following state agencies: the Nevada Department of Motor Vehicles; the Nevada System of Higher Education; any housing authority; the Nevada Department of Employment, Training, and Rehabilitation; the Nevada Department of Corrections (when eligible voters are released from prison); and any office that receives money from the State of Nevada to provide services to persons with disabilities. Data collection for registration purposes will occur any time a consenting, eligible Nevada voter completes an application for services, renewal or recertification for services, or change of address with such an agency and consents to voter registration. The bill also permits the Secretary of State to designate additional agencies which he believes will assist in broader voter registration opportunities.

The amendment then requires these agencies to enter into agreements with the Secretary of State to transmit appropriate voter registration data to the correct county election officials. At a minimum, the data transmission will provide the clerks with the basic information needed to register a voter, including name, address, date of birth, party preference, citizenship, state ID or social security number, and ideally, an electronic capture of the voter's signature. The amendment specifies that until the state and the relevant agencies have in place the technology to capture electronic signatures, that the Secretary shall enact regulations to provide for the provisional registration of voters without a signature – meaning that they will receive mailings intended for registered voters and appear on the poll books; however, their registration will not be perfected until the voter provides the signature, which they may do at the polls.

The Secretary of State, working in collaboration with relevant agency leaders, will have broad latitude to specify the format, frequency, and content of these electronic data transmissions, but will have to take steps to safeguard the privacy, confidentiality, and security of any electronic transmission of voter data. The state already has appropriate systems in place to transfer this data from the DMV under current law (pursuant to the National Voter Registration Act, or “Motor Voter”), so Nevada already has a template for designing the specifics of these regulations.

Automatic, portable registration will increase efficiency and rein in the cost of voter registration for Nevada and its 17 counties. Electronic voter records greatly reduce the resources required for data entry, and automated in-state address changes eliminate mountains of paperwork. States that have adopted modernized registration have saved **hundreds of thousands of dollars on election administration**, with savings likely to run into the millions after just a few years of implementation. Among the cost statistics that the Brennan Center has collected are:

- It cost Arizona less than \$130,000 and Washington just \$279,000 to implement both online voter registration **and** automated voter registration at DMVs.

- Delaware’s paperless voter registration at DMVs saves election officials more than **\$200,000 annually** on personnel costs, above the savings they reaped by partially automating the process in the mid-1990s. Officials anticipate further savings.
- Online and automated DMV registrations saved Maricopa County, Arizona over **\$450,000 in 2008**. The county spends 33¢ to manually process an electronic application, and an average of 3¢ using a partially automated review process, compared to 83¢ for a paper registration form.³

AB 108 as amended will dramatically increase the degree to which state records are used to build a system of automated and permanent registration. Modernizing Nevada’s voter registration system will lead to more accurate and complete voter rolls, with fewer data errors, handwriting mistakes, duplicate records, and outdated voter files. Current and accurate voter rolls assist poll workers and significantly reduce opportunities for election fraud. Most importantly, automated processes save significant money in both the short and the long run.

b. Portable Registration for In-State Movers

Portable, or “permanent,” registration ensures that voters, once entered onto the state rolls, stay registered so long as they continue to live in Nevada, without the need to constantly update registration information if they move or if their circumstances change. Using the same reliable data described above, transferred electronically to maximize accuracy and efficiency, a voter updating her name or address at a cooperating state agency would have the same information reflected on the voter rolls, keeping the rolls consistently up to date. Under the amendment, county clerks receiving address change data from a cooperating agency will transfer the voter’s registration, including across county lines, so long as the voter is provided an opportunity to assert that the change should not apply for voter registration purposes and does not do so. A change of address notice is then sent to the voter; and if the notice comes back as undeliverable, the voter will be returned to their prior registration address. This cuts down on the need for multiple redundant forms, and the time and confusion at the polls that results when voters update one reliable government record but forget to update their voter registration.

Inaccurate, outdated registration rolls pose problems for election authorities, increasing the cost of election administration and voter mailings, making it difficult to properly plan for elections, and rousing fears of possible fraud. Twenty-nine million voting-age Americans — approximately one in six people — move each year.⁴ In Nevada, almost 400,000 people move from one address within the state to another each year.⁵ This high mobility rate increases the burdens that address changes – or failure to

³ CHRISTOPHER PONOROFF, BRENNAN CTR. FOR JUST., VOTER REGISTRATION IN A DIGITAL AGE (Wendy Weiser, ed.) (2010), *available at*

http://www.brennancenter.org/content/resource/voter_registration_in_a_digital_age/.

⁴ MYRNA PÉREZ, BRENNAN CTR. FOR JUST., WHEN VOTERS MOVE I (2009), *available at*

http://www.brennancenter.org/content/resource/when_voters_move/.

⁵ See U.S. Census Bureau, American Factfinder, Nevada: Selected Social Characteristics in the United States: 2006-2008, *available at*

submit address changes – place on county registrars. Automating this process will greatly reduce data entry and uncertainty on the voter rolls.

Finally, automation of address change data is a fantastic way for the state to ensure total compliance with federal law. Section 5(d) of the National Voter Registration Act of 1993 requires that states update a voter’s registration record when she submits a change of address form to motor vehicle authorities unless the voter expressly declines the update. The Brennan Center has in the past expressed concern about Nevada’s possible noncompliance with this section and understands that the Secretary has worked to remedy this problem. Full automation at both the DMV and relevant public service and disability agencies⁶ will ensure full compliance with both the letter and spirit of the National Voter Registration Act of 1993 and ensure that eligible Nevada voters remain on the rolls after any in-state move that is communicated to the state.

c. Statewide Online Voter Interface

The proposed amendment to AB108 also institutes a fully interactive, statewide voter registration interface set up and run by the Secretary of State. Both the state and county clerks and registrars will have full access to the voter files in the database. The interface also allows voters to check polling locations and correct any errors in their voter record: all without any paperwork.

Online access to registration ensures that the voters who know best are able to enter, verify, and update their own information online. The single best source of up-to-date, accurate voter information is the voter herself. Ensuring that a voter is able to securely double-check her own registration status and data, and efficiently communicate changes or mistakes, is the best way to ensure that the rolls remain accurate.

Clark County, Nevada’s most populous, has already successfully implemented online registration, allowing voters to register and update their registration records from home. On September 1, 2010, Nevada introduced an online registration portal for residents of Clark County, home to 72% of the state’s population. The county online registration system was a resounding success, as reported by both the Secretary of State’s office and Larry Lomax, registrar of Clark County. Therefore, there is standing successful model that can be adapted and adopted for all of Nevada’s voters. Indeed, Clark County’s system contained numerous aspects that make it a model modern registration system.⁷

http://factfinder.census.gov/servlet/ADPTable?_bm=y&-context=adp&-qr_name=ACS_2006_EST_G00_DP2&-ds_name=ACS_2006_EST_G00_&-tree_id=306&-redoLog=false&-_caller=geoselect&-geo_id=04000US32&-format=&-_lang=en (reporting that in the past year 363,068 people had moved from another residence in the same county, and 24,859 people moved from one Nevada county to another).

⁶ Similarly, Section 7 of the Act requires states to make voter registration opportunities available at all public service and disability agencies.

⁷ For example, Clark County’s online system is unique in including an address verification process. When an applicant enters her home address, the system performs a real-time check of Clark County’s database of residential addresses. It will not allow the applicant to proceed unless it finds a matching, valid address.

While we applaud Clark County’s initial foray into online registration, we urge the Committee to make this incredible tool available to all 17 counties. This increased access to registration is particularly beneficial to voters with limited mobility. By centralizing the creation and maintenance of the database with the state, AB108 and its amendment ensure that the counties do not have to pay for duplicative software or 17 differing systems; instead, the Secretary will work with the counties to develop a statewide version of the an online interface to which they all have the necessary access. This should create a statewide interface that is efficient, consistent, and available to every eligible voter in Nevada.

d. Election-Day Registration and Correction

Finally, while the original draft of AB108 already establishes Election-Day Registration (EDR) in Nevada, this amendment will amend the proposed EDR process to make it more administrable for election officials. AB 108 currently requires Election Day registrants to appear in person at the clerks’ offices, with registration available non-stop through Election Day. We support the principles behind the bill, but have concerns about the practical administrability of the current proposal. For example, having no break in the registration period demands that county election officials handle non-stop data entry from paper registration forms even as they administer and staff early voting, which has been rousingly successful in Nevada. From a staffing and resources standpoint, such dual duties are likely impossible.

Many states with EDR instead engage in a short period where new registrations cannot be submitted in order to leave the clerks room to prepare for early voting and Election Day. We suggest following this model, which has yielded great success in boosting turnout while maintaining security, and in limiting the cost and uncertainty of provisional ballots.⁸ During the “cut-off” period, clerks have time to update poll books, staff early voting locations, and prepare for the election. Registration is then available again at the polls on Election Day itself. However, online registration – which requires no secondary data entry by the counties, as data automatically updates a voter’s record – can continue without interruption through the election.

The amendment will therefore cut off in-person or mail registration the fifth Sunday before Election Day, just as currently occurs under Nevada law. It will, however, leave online registration open without interruption. Finally, the amendment permits EDR

The goal is to deal with this problem at the source, rather than leave county officials to attempt to resolve them. We suggest that the Secretary adopt regulations to mimic the most successful aspects of the Clark County system, on which the county cooperated closely with the Secretary of State’s office.

⁸ See, e.g., BARRY C. BURDEN ET AL., THE EFFECTS AND COSTS OF EARLY VOTING, ELECTION DAY REGISTRATION, AND SAME DAY REGISTRATION IN THE 2008 ELECTIONS (2009), available at <http://electionadmin.wisc.edu/pewreportfinal.pdf>; DÉMOS, VOTERS WIN WITH ELECTION DAY REGISTRATION 5 (2009), available at http://www.demos.org/pubs/voterswin_09.pdf; LORRAINE MINNITE, DÉMOS, ELECTION DAY REGISTRATION: A STUDY OF VOTER FRAUD ALLEGATIONS AND FINDINGS ON VOTER ROLL SECURITY (2007), available at <http://www.demos.org/pubs/EDRVF.pdf>; Benjamin Highton, *Voter Registration and Turnout in the United States*, 2 *PERSP. ON POL.* 507, 509 (2004).

on Election Day itself at the polls, rather than in clerk's offices. This simply reflects the impractical nature of having thousands of registrants in line at the Clark County clerk's office one a single day. Full EDR also acts as a fail-safe for any voter whose registration or updated information falls through any bureaucratic crack. By adopting this amendment, the Committee can encourage full participation by all eligible voters who wish to cast a ballot. The amended bill will also ensure that the county election officials can carry out their multiple duties without conflict.

III. Conclusion

AB 108 and its proposed amendment before you today represent carefully structured efforts to include all key components of a comprehensive bill to modernize Nevada's voter registration system. We support this bill, and encourage Nevada to become a leader among the wave of modernization efforts, large and small, across the country.⁹

I am happy to answer any questions that members of the Committee have about AB108, the conceptual amendments, or the details of implementing a fully modern registration system. Please do not hesitate to contact me at any time if I can be of assistance.

Sincerely,



Lee Rowland
Democracy Counsel
Brennan Center for Justice at New York University School of Law
161 Avenue of the Americas, 12th Floor
New York, New York 10013
lee.rowland@nyu.edu
P: (646) 292-8334
F: (212) 463-7308

⁹ See WENDY WEISER, CHRISTOPHER PONOROFF & NHU-Y NGO, BRENNAN CTR. FOR JUST., MODERNIZING VOTER REGISTRATION: MOMENTUM IN THE STATES (2010), available at http://www.brennancenter.org/content/resource/vrm_state_momentum.