



Legislative
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FISCAL NOTE

Drafting Number:	LLS 19-0656	Date:	February 6, 2019
Prime Sponsors:	Rep. Duran; Carver Sen. Rodriguez	Bill Status:	House SVMA
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Bill Topic: REMOTE NOTARIES PROTECT PRIVACY

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill authorizes a notary public to perform a notarial act for remotely located individuals and provides certain privacy protections. It increases state cash fund revenue and expenditures on an ongoing basis beginning in FY 2019-20.

Appropriation Summary: In FY 2019-20, the bill requires a cash fund appropriation of \$107,333 to the Department of State.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 19-1167**

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	\$30,960	\$30,960
	Total	\$30,960	\$30,960
Expenditures	Cash Funds	\$107,333	\$22,640
	Centrally Appropriated	\$12,181	\$5,789
	Total	\$119,514	\$28,429
	Total FTE	0.9 FTE	0.4 FTE
Transfers		-	-
TABOR Refund	General Fund	\$30,960	-

Summary of Legislation

The bill allows a notary public to perform notarizations for remotely located individuals for electronic documents related to:

- matters before a court, governmental entity, or other entity in the U.S.;
- property located in the U.S.; and
- transactions substantially related to the U.S.

Remote notarizations cannot be used for changes to estate documents or records related to the electoral process.

Remotely located individuals must appear before the notary using a technology that allows communication with both sight and sound simultaneously. The certificate of notarial act must indicate that the notarial act was performed using an audio-visual communication technology. The bill also establishes standards for verifying the identity of the remotely located individual. In addition, notaries must notify the Secretary of State when notarizing for remote individuals and identify the technology they are planning to use. The Secretary of State, by allowing the use of the communication technology, will act as the registered agent for any civil actions related to the notarial act.

Notaries public and communication technology providers may not use personal information collected during the notarial act for anything other than completing the notarial act or as necessary to effect, administer, enforce, service, or the process the transaction.

The Secretary of State may adopt rules establishing the standards, requirements, and procedures related to notarial acts for remotely located individuals.

Assumptions

This fiscal note assumes that the Secretary of State will register six communication technology providers for remote communication technology. The Secretary of State will also process and investigate 27 remote notary complaints per year.

State Revenue

Beginning in FY 2019-20, the bill increases state cash fund revenue in the Department of State by \$30,960 per year.

Fee impact on Department of State. Colorado law requires legislative service agency review of measures which create any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by Department of State based on cash fund balance, estimated program costs, and the estimated number of registrations subject to the fee. Table 2 below identifies the fee impact of this bill. The fee is intended to cover ongoing administrative costs of the program over four years.

**Table 2
Fee Impact on Communication Technology Providers**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2019-20	Communication Technology Provider Fee	\$5,160	6	\$30,960
			FY 2019-20 Total	\$30,960
FY 2020-21	Communication Technology Provider Fee	\$5,160	6	\$30,960
			FY 2020-21 Total	\$30,960

State Expenditures

The bill increases cash fund expenditures by \$119,514 and 0.9 FTE in FY 2019-20, and \$28,429 and 0.4 FTE in FY 2020-21 from the Department of State Cash Fund.

**Table 3
Expenditures Under HB 19-1167**

	FY 2019-20	FY 2020-21
Department of State		
Personal Services	\$41,476	\$22,549
Operating Expenses and Capital Outlay Costs	\$5,649	\$91
Computer Programming	\$60,208	-
Centrally Appropriated Costs*	\$12,181	\$5,789
FTE – Personal Services	0.9 FTE	0.4 FTE
Total Cost	\$119,514	\$28,429
Total FTE	0.9 FTE	0.4 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of State The Department of State will require 0.9 FTE to implement this program in FY 2019-20 and 0.4 FTE in FY 2020-21. The additional FTE will process and investigate notary complaints; engage in rulemaking; certify and track communication technology providers; create a system for tracking remote notaries; mail documents; and update forms, manuals, and the department's website.

In addition, in FY 2019-20, one-time computer programming costs of \$60,208 are required to update the existing notary web application system. Programming costs are calculated at 568 hours at a rate of \$106 per hour. Cost estimates are based on a similar system implementation for durable medical equipment.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by \$30,960 in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$12,181 in FY 2019-20 and \$5,789 in FY 2020-21.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires an appropriation of \$107,333 from the Department of State Cash Fund to the Department of State and an allocation of 0.9 FTE.

State and Local Government Contacts

Information Technology Secretary of State