



Legislative
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SB 20-096

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 24, 2020)

Drafting Number: LLS 20-0051
Prime Sponsors: Sen. Rodriguez; Holbert
Rep. Duran; Carver

Date: May 29, 2020
Bill Status: House Appropriations
Fiscal Analyst: Josh Abram | 303-866-3561
Josh.Abram@state.co.us

Bill Topic: **REMOTE NOTARIES PROTECT PRIVACY**

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

The bill allows for the remote notarization of electronic documents. The bill increases revenue and expenditures in the Department of State beginning FY 2020-21.

Appropriation Summary: For FY 2020-21, the bill requires a cash fund appropriation of \$132,795 to the Department of State.

Fiscal Note Status: The bill reflects the reengrossed bill, as amended by the House Business and Labor Affairs Committee.

**Table 1
State Fiscal Impacts Under SB 20-096**

		FY 2020-21	FY 2021-22
Revenue	Cash Fund	\$2,500	\$2,500
	Total	\$2,500	\$2,500
Expenditures	Cash Fund	\$132,795	\$36,034
	Centrally Appropriated	\$16,761	\$9,419
	Total	\$149,556	\$45,453
	Total FTE	1.1 FTE	0.6 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

For the period March 2020 through December 2020, this bill provides additional statutory authority and guidance concerning temporary rules adopted by the Secretary of State allowing a notary public to perform a notarial act remotely instead of in person.

Beginning January, 2021, the bill establishes a permanent statutory framework allowing a notary public to perform a notarial act remotely on electronic documents. The bill prohibits a remote notarization of any record relating to the electoral process, or records relating to wills or codicils.

A notary public may notarize electronic documents for a remotely located individual so long as the notarial act occurs using an electronic system employing real-time audio-video communication, and the process conforms to rules adopted by the Secretary of State (SOS).

Before performing an initial notarization, the notary public is required to notify the SOS that the notary will be performing notarization using a remote system. The notice must confirm that the notary has read and will comply with the SOS rules, and provide proof that the notary has successfully completed any training and examinations required by rule.

The bill establishes requirements for notaries performing remote notarial acts, including requirements for a remote notarization system, verification technology, validating credentials, assessing identity, and making disclosures to clients. The bill also requires that notaries create and maintain an audio-video recording of a remote notarization under certain circumstances.

State Revenue

The bill increases state revenue by \$2,500 annually beginning FY 2020-21. The SOS must approve notary vendors and remote notary technology, and create a registration and annual renewal process for notary technology vendors. The SOS will charge providers a \$250 fee per year, the same rate used for current notary vendors that provide training courses. It is estimated that 10 system providers will register with the department, increasing cash fund revenue by \$2,500. This fee revenue is subject to TABOR. It is assumed this bill will not increase the registration fee charged to individual notaries public.

Fee impact on notary system providers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the SOS based on cash fund balance, estimated program costs, and the estimated number of notary system providers subject to the fee. The table below identifies the fee impact of this bill.

Table 2
Fee Impact on Notary System Providers

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Remote Notary System Provider	\$250	10	\$2,500
FY 2020-21 Total				\$2,500
FY 2021-22	Remote Notary System Provider	250	10	\$2,500
FY 2021-22 Total				\$2,500

State Expenditures

The bill increases state cash fund expenditures in the Department of State's office by \$149,556 and 1.1 FTE in FY 2020-21. For FY 2021-22 and future fiscal years, increased expenditures are \$45,453 and 0.6 FTE. New costs are displayed in Table 3 and described below.

**Table 3
Expenditures Under SB 20-096**

	FY 2020-21	FY 2021-22
Secretary of State		
Personal Services	\$57,910	\$34,654
Operating Expenses	\$1,485	\$810
Capital Outlay Costs	\$6,200	\$570
Computer Programming	\$67,200	-
Centrally Appropriated Costs*	\$16,761	\$9,419
Total Cost	\$149,556	\$45,453
Total FTE	1.1 FTE	0.6 FTE

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

Personal services. For FY 2020-21, the department requires an increase in staff for a 0.6 FTE compliance investigator in the Business and Licensing Division. Currently, the division handles about 70 notary investigations per year. This bill is anticipated to increase the total number of investigations annually, and the amount of time necessary to resolve each investigation. The SOS will also require 0.4 FTE administrator to research and facilitate the adoption of new rules for remote notarization, and 0.1 FTE business analyst to assist with the creation of application forms, affidavits, notifications, web updates, training, and technical assistance. Beginning FY 2021-22, administrative expenses are reduced to include only the 0.6 FTE compliance investigator.

Computer programming. The Information Technology Division in the SOS will need to contract for the staff vendor to modify the Business and Licensing Division Notary web application. Updates include adding functionality, updating static pages, creating a new transaction capability, and changing the processing system to support new filings. These changes are estimated to require 600 hours of contracted IT services at \$112 per hour.

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 \$16,761 in FY 2020-21 and \$9,419 in FY 2021-22.

Effective Date

The bill takes effect upon signature of the Governor, or on becoming law without his signature, except that Sections 1 through 5, and Section 7, take effect December 31, 2020, and apply to notarial acts occurring on or after March 30, 2020.

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$132,795 from the Department of State Cash Fund to the Department of State, and 1.1 FTE.

State and Local Government Contacts

Secretary of State