

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 186

FINAL READING
(SECOND)

Introduced by Lindstrom, 18.

Read first time January 11, 2019

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to documents; to amend sections 64-105,
2 64-113, 64-203, 64-205, and 86-611, Reissue Revised Statutes of
3 Nebraska, and sections 23-1503.01 and 84-618, Revised Statutes
4 Cumulative Supplement, 2018; to adopt the Online Notary Public Act;
5 to change provisions relating to physical appearance before a
6 notary; to provide for transfers of funds; to harmonize provisions;
7 to provide duties relating to real estate documents; to provide a
8 duty for the Revisor of Statutes; to provide operative dates; to
9 repeal the original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 18 of this act shall be known as the
2 Online Notary Public Act.

3 Sec. 2. For purposes of the Online Notary Public Act:

4 (1) Communication technology means an electronic device or process
5 that allows an online notary public and an individual who is not in the
6 physical presence of the online notary public to communicate with each
7 other simultaneously by sight and sound;

8 (2) Credential analysis means a process or service operating
9 according to criteria approved by the Secretary of State through which a
10 third person affirms the validity of a government-issued identification
11 credential through review of public and proprietary data sources;

12 (3) Electronic means relating to technology having electrical,
13 digital, magnetic, wireless, optical, electromagnetic, or similar
14 capabilities;

15 (4) Electronic document means information that is created,
16 generated, sent, communicated, received, or stored by electronic means;

17 (5) Electronic signature means an electronic sound, symbol, or
18 process attached to or logically associated with an electronic document
19 and executed or adopted by a person with the intent to sign the
20 electronic document;

21 (6) Identity proofing means a process or service operating according
22 to criteria approved by the Secretary of State through which a third
23 person affirms the identity of an individual through review of personal
24 information from public or proprietary data sources;

25 (7) Online notarial act means the performance by an online notary
26 public of a function authorized under section 8 of this act that is
27 performed by means of communication technology that meets the standards
28 developed under section 7 of this act;

29 (8) Online notarial certificate means the portion of a notarized
30 electronic document that is completed by an online notary public and that
31 contains the following:

1 (a) The online notary public's electronic signature, online notary
2 seal, title, and commission expiration date;

3 (b) Other required information concerning the date and place of the
4 online notarial act; and

5 (c) The completed wording of one of the following notarial
6 certificates: (i) Acknowledgment, (ii) jurat, (iii) verification of
7 proof, or (iv) oath or affirmation;

8 (9) Online notary public means a notary public registered with the
9 Secretary of State who has the authority to perform online notarial acts
10 under the Online Notary Public Act;

11 (10) Online notary seal means information within a notarized
12 electronic document that confirms the online notary public's name,
13 jurisdiction, identifying number, and commission expiration date and
14 generally corresponds to the data in notary seals used on paper
15 documents;

16 (11) Online notary solution provider means a provider of any
17 credential analysis, identity proofing, online notary seals, electronic
18 signatures, or communication technology;

19 (12) Personal knowledge or personally known means familiarity with
20 an individual resulting from interactions with that individual over a
21 period of time sufficient to dispel any reasonable uncertainty that the
22 individual has the identity claimed;

23 (13) Principal means an individual:

24 (a) Whose electronic signature is notarized in an online notarial
25 act; or

26 (b) Taking an oath or affirmation from the online notary public
27 other than in the capacity of a witness for the online notarial act; and

28 (14) Remote presentation means transmission to the online notary
29 public through communication technology of an image of a government-
30 issued identification credential that is of sufficient quality to enable
31 the online notary public to:

1 (a) Identify the individual seeking the online notary public's
2 services; and

3 (b) Perform credential analysis.

4 Sec. 3. (1) To be eligible to register as an online notary public,
5 a person shall:

6 (a) Hold a valid commission as a notary public in the State of
7 Nebraska;

8 (b) Satisfy the education requirement of section 4 of this act; and

9 (c) Pay the fee required under section 5 of this act.

10 (2) The Secretary of State shall not accept the registration if the
11 requirements of subsection (1) of this section are not met.

12 Sec. 4. (1) Before registering as an online notary public, a notary
13 public shall take a course of instruction and pass an examination
14 approved by the Secretary of State. The course of instruction and
15 examination shall be approved by the Secretary of State by July 31, 2020.

16 (2) The content of the course and the basis for the examination
17 shall include notarial laws, procedures, technology, and the ethics of
18 performing online notarial acts.

19 Sec. 5. The fee for registering or renewing a registration as an
20 online notary public shall be in addition to the fee required in section
21 33-102. The Secretary of State shall establish the fee by rule and
22 regulation in an amount sufficient to cover the costs of administering
23 the Online Notary Public Act, but the fee shall not exceed fifty dollars.
24 The Secretary of State shall remit fees received under this section to
25 the State Treasurer for credit to the Administration Cash Fund for use in
26 administering the Online Notary Public Act.

27 Sec. 6. (1) Before performing an online notarial act, a notary
28 public shall register with the Secretary of State in a manner prescribed
29 by the Secretary of State.

30 (2) In addition to any additional information prescribed by the
31 Secretary of State, the registration shall include:

1 (a) The technology the notary public intends to use to perform an
2 online notarial act. Such technology shall be provided by an online
3 notary solution provider approved by the Secretary of State;

4 (b) A certification by the notary that he or she will comply with
5 the standards developed under section 7 of this act; and

6 (c) An email address for the notary.

7 (3) The term of registration as an online notary public shall
8 coincide with the term of the commission of the notary public.

9 (4) An application to renew registration as an online notary public
10 shall specify any change in the technology the online notary public
11 intends to use to perform online notarial acts. Such technology shall be
12 provided by an online notary solution provider approved by the Secretary
13 of State.

14 (5) A person registered as an online notary public may renew his or
15 her online notary public registration at the same time he or she renews
16 his or her notary public commission.

17 Sec. 7. (1) The Secretary of State shall adopt and promulgate rules
18 and regulations:

19 (a) Creating standards for online notarial acts in accordance with
20 the Online Notary Public Act, including standards for credential
21 analysis, identity proofing, and communication technology used for online
22 notarial acts; and

23 (b) To ensure the integrity, security, and authenticity of online
24 notarial acts in accordance with the Online Notary Public Act. Such rules
25 and regulations shall include procedures for the approval of online
26 notary solution providers by the Secretary of State.

27 (2) The Secretary of State may adopt and promulgate rules and
28 regulations to facilitate the utilization of online notarial acts.

29 Sec. 8. The following types of online notarial acts may be
30 performed by an online notary public:

31 (1) Acknowledgments;

- 1 (2) Jurats;
- 2 (3) Verifications or proofs; and
- 3 (4) Oaths or affirmations.

4 Sec. 9. (1) An online notary public shall keep a secure electronic
5 record of electronic documents notarized by the online notary public. For
6 each online notarial act, the electronic record shall contain:

- 7 (a) The date and time of the online notarial act;
- 8 (b) The type of online notarial act;
- 9 (c) The type, title, or description of the electronic document or
10 proceeding;

- 11 (d) The printed name and address of each principal involved in the
12 transaction or proceeding;

- 13 (e) Evidence of identity of each principal involved in the
14 transaction or proceeding in the form of:

- 15 (i) A statement that the principal is personally known to the online
16 notary public;

- 17 (ii) A notation of the type of identification document provided to
18 the online notary public;

- 19 (iii) A record of the identity verification made under section 11 of
20 this act; or

- 21 (iv) The following:

- 22 (A) The printed name and address of each credible witness swearing
23 to or affirming the principal's identity; and

- 24 (B) For each credible witness not personally known to the online
25 notary public, a description of the type of identification documents
26 provided to the online notary public;

- 27 (f) A recording of any video and audio conference of the performance
28 of the online notarial act, which shall not contain images of the
29 documents that were notarized; and

- 30 (g) The fee, if any, charged for the online notarial act.

- 31 (2) The online notary public shall take reasonable steps to:

1 (a) Ensure the integrity, security, and authenticity of online
2 notarial acts;

3 (b) Maintain a backup for the secure electronic record required by
4 this section; and

5 (c) Protect the secure electronic record and backup record from
6 unauthorized use.

7 (3) The electronic record and backup record required by this section
8 shall be maintained for at least ten years after the date of the
9 transaction or proceeding. The online notary public shall not surrender
10 or destroy the record except as required by a court order or as allowed
11 under rules and regulations adopted and promulgated by the Secretary of
12 State.

13 Sec. 10. (1) An online notary public's electronic signature in
14 combination with the online notary seal shall be used only for the
15 purpose of performing online notarial acts.

16 (2) An online notary public shall take reasonable steps to ensure
17 that any registered device used to create an electronic signature is
18 current and has not been revoked or terminated by the device's issuing or
19 registering authority.

20 (3) An online notary public shall keep secure and under his or her
21 exclusive control: The online notary public's electronic signature,
22 online notary seal, and the electronic record and backup record required
23 under section 9 of this act. The online notary public shall not allow
24 another person to use the online notary public's electronic signature,
25 online notary seal, or electronic record or backup record.

26 (4) An online notary public shall immediately notify an appropriate
27 law enforcement agency and the Secretary of State of the theft or
28 vandalism of the online notary public's electronic signature, online
29 notary seal, or the electronic record or backup record required under
30 section 9 of this act. An online notary public shall immediately notify
31 the Secretary of State of the loss or use by another person of the online

1 notary public's electronic signature, online notary seal, or the
2 electronic record or backup record required under section 9 of this act.

3 Sec. 11. (1) An online notary public may perform an online notarial
4 act authorized under section 8 of this act that meets the requirements of
5 the Online Notary Public Act and the rules and regulations adopted and
6 promulgated thereunder regardless of whether the principal is physically
7 located in this state at the time of the online notarial act.

8 (2) In performing an online notarial act, an online notary public
9 shall verify the identity of an individual creating an electronic
10 signature. Identity shall be verified by:

11 (a) The online notary public's personal knowledge of the individual
12 creating the electronic signature;

13 (b) All of the following:

14 (i) Remote presentation by the individual creating the electronic
15 signature of a government-issued identification credential that is
16 current and that bears the photographic image of the individual's face
17 and signature and a physical description of the individual, except that a
18 properly stamped passport without a physical description is satisfactory
19 evidence;

20 (ii) Credential analysis of such credential; and

21 (iii) Identity proofing of the individual creating the electronic
22 signature; or

23 (c) Oath or affirmation of a credible witness who is in the physical
24 presence of either the online notary public or the individual and who has
25 personal knowledge of the individual if:

26 (i) The credible witness is personally known to the online notary
27 public; or

28 (ii) The online notary public has verified the identity of the
29 credible witness under subdivision (2)(b) of this section.

30 (3) The online notary public shall take reasonable steps to ensure
31 that the communication technology used in an online notarial act is

1 secure from unauthorized interception.

2 (4) An online notary public shall attach the online notary public's
3 electronic signature and online notary seal to the online notarial
4 certificate of an electronic document in a manner that is capable of
5 independent verification and that renders evident any subsequent change
6 or modification to the electronic document.

7 (5) The online notarial certificate for an online notarial act must
8 include a notation that the notarial act is an online notarial act.

9 Sec. 12. In addition to any fee authorized under section 33-133, an
10 online notary public or his or her employer may charge a fee in an amount
11 not to exceed twenty-five dollars for each online notarial act.

12 Sec. 13. (1) Except as provided in subsection (2) of this section,
13 when the registration of an online notary public expires or is resigned,
14 canceled, or revoked or when an online notary public dies, he or she or
15 his or her duly authorized representative shall erase, delete, or destroy
16 the coding, disk, certificate, card, software, file, password, or program
17 that enables the electronic affixation of the online notary public's
18 official electronic signature and online notary seal. The online notary
19 public or his or her duly authorized representative shall certify
20 compliance with this subsection to the Secretary of State.

21 (2) A former online notary public whose previous registration was
22 not revoked, canceled, or denied by the Secretary of State need not
23 comply with subsection (1) of this section if he or she is reregistered
24 as an online notary public using the same electronic signature within
25 three months after the former registration expired.

26 Sec. 14. A person who, without authorization, knowingly obtains,
27 conceals, damages, or destroys the coding, disk, certificate, card,
28 software, file, password, program, or hardware enabling an online notary
29 public to affix an official electronic signature or online notary seal
30 shall be guilty of a Class I misdemeanor.

31 Sec. 15. (1) Electronic evidence of the authenticity of the

1 electronic signature and online notary seal of an online notary public of
2 this state, if required, shall be attached to, or logically associated
3 with, a document with an online notary public's electronic signature
4 transmitted to another state or nation and shall be in the form of an
5 electronic certificate of authority signed by the Secretary of State in
6 conformance with any current and pertinent international treaties,
7 agreements, and conventions subscribed to by the United States
8 Government.

9 (2) An electronic certificate of authority evidencing the
10 authenticity of the electronic signature and online notary seal of an
11 online notary public of this state shall contain substantially the
12 following words:

13 Certificate of Authority for an Online Notarial Act
14 I (name, title, jurisdiction of commissioning
15 official) certify that (name of online notary
16 public), the person named as an online notary public in the attached or
17 associated document, was indeed registered as an online notary public for
18 the State of Nebraska and authorized to act as such at the time of the
19 document's electronic notarization. To verify this Certificate of
20 Authority for an Online Notarial Act, I have included herewith my
21 electronic signature this day
22 of, 20.....

23 (Electronic signature (and seal) of commissioning official)

24 (3) The Secretary of State may charge a fee of twenty dollars for
25 issuing an electronic certificate of authority. The Secretary of State
26 shall remit the fees to the State Treasurer for credit to the
27 Administration Cash Fund for use in administering the Online Notary
28 Public Act.

29 Sec. 16. A person violating the Online Notary Public Act is subject
30 to having his or her registration removed under the removal procedures
31 provided in section 64-113.

1 Sec. 17. Nothing in the Online Notary Public Act requires a notary
2 public to register as an online notary public if he or she does not
3 perform online notarial acts.

4 Sec. 18. (1) Sections 64-101 to 64-119 and 64-211 to 64-215 and the
5 Uniform Recognition of Acknowledgments Act govern an online notary public
6 unless the provisions of such sections and act are in conflict with the
7 Online Notary Public Act, in which case the Online Notary Public Act
8 controls.

9 (2) An online notarial act performed under the Online Notary Public
10 Act satisfies any requirement of law of this state that a principal
11 appear before, appear personally before, or be in the physical presence
12 of a notary public at the time of the online notarial act except for
13 requirements under:

14 (a) A law governing the creation and execution of wills, codicils,
15 or testamentary trusts; or

16 (b) The Uniform Commercial Code other than article 2 and article 2A.

17 (3) The Electronic Notary Public Act does not apply to online
18 notarial acts or online public notaries acting under the Online Notary
19 Public Act.

20 Sec. 19. Section 23-1503.01, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 23-1503.01 (1) Any instrument submitted for recording in the office
23 of the register of deeds shall contain a blank space at the top of the
24 first page which is at least three inches by eight and one-half inches in
25 size for recording information required by section 23-1510 by the
26 register of deeds. If this space or the information required by such
27 section is not provided, the register of deeds may add a page or use the
28 back side of an existing page and charge for the page a fee established
29 by section 33-109 for the recording of an instrument. No attachment or
30 affirmation shall be used in any way to cover any information or printed
31 material on the instrument.

1 (2) Printed forms primarily intended to be used for recordation
2 purposes shall have a one-inch margin on the two vertical sides and a
3 one-inch margin on the bottom of the page. Nonessential information such
4 as page numbers or customer notations may be placed within the side and
5 bottom margins.

6 (3) All instruments submitted for recording shall measure ~~be on~~
7 ~~paper measuring~~ at least eight and one-half inches by eleven inches and
8 not larger than eight and one-half inches by fourteen inches. The
9 instrument shall be printed, typewritten, or computer-generated in black
10 ink on a white background if submitted electronically or on white paper
11 of not less than twenty-pound weight without watermarks or other visible
12 inclusions. The instrument shall be sufficiently legible to allow for a
13 readable copy to be reproduced using the method of reproduction used by
14 the register of deeds. A font size of at least eight points shall be
15 presumed to be sufficiently legible. Each signature on an instrument
16 shall be in black or dark blue ink and of sufficient color and clarity to
17 ensure that the signature is readable when the instrument is reproduced.
18 The signature may be a digital signature or an electronic signature. The
19 name of each party to the instrument shall be typed, printed, or stamped
20 beneath the original signature. An embossed or inked stamp shall not
21 cover or otherwise materially interfere with any part of the instrument.

22 (4) This section does not apply to:

23 (a) Instruments signed before August 27, 2011;

24 (b) Instruments executed outside of the United States;

25 (c) Certified copies of instruments issued by governmental agencies,
26 including vital records;

27 (d) Instruments signed by an original party who is incapacitated or
28 deceased at the time the instruments are presented for recording;

29 (e) Instruments formatted to meet court requirements;

30 (f) Federal and state tax liens;

31 (g) Forms prescribed by the Uniform Commercial Code; and

1 (h) Plats, surveys, or drawings related to plats or surveys.

2 (5) The changes made to this section by Laws 2011, LB254, do not
3 affect the duty of a register of deeds to file an instrument presented
4 for recordation as set forth in sections 23-1506 and 76-237.

5 Sec. 20. Section 64-105, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 64-105 (1) A notary public shall not perform any notarial act as
8 authorized by Chapter 64, articles 1, ~~and~~ 2, and 3 if the principal:

9 (a) Is not in the presence of the notary public at the time of the
10 notarial act; and

11 (b) Is not personally known to the notary public or identified by
12 the notary public through satisfactory evidence.

13 (2) For purposes of this section:

14 (a) Identified by the notary public through satisfactory evidence
15 means identification of an individual based on:

16 (i) At least one document issued by a government agency that is
17 current and that bears the photographic image of the individual's face
18 and signature and a physical description of the individual, except that a
19 properly stamped passport without a physical description is satisfactory
20 evidence; or

21 (ii) The oath or affirmation of one credible witness unaffected by
22 the document or transaction to be notarized who is personally known to
23 the notary public and who personally knows the individual, or the oaths
24 or affirmations of two credible witnesses unaffected by the document or
25 transaction to be notarized who each personally knows the individual and
26 shows to the notary public documentary identification as described in
27 subdivision (a)(i) of this subsection; and

28 (b) Personal knowledge of identity or personally known means
29 familiarity with an individual resulting from interactions with that
30 individual over a period of time sufficient to dispel any reasonable
31 uncertainty that the individual has the identity claimed.

1 (3) This section does not apply to online notarial acts under the
2 Online Notary Public Act.

3 Sec. 21. Section 64-113, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 64-113 (1) Whenever charges of malfeasance in office are preferred
6 to the Secretary of State against any notary public in this state, or
7 whenever the Secretary of State has reasonable cause to believe any
8 notary public in this state is guilty of acts of malfeasance in office,
9 the Secretary of State may appoint any disinterested person, not related
10 by consanguinity to either the notary public or person preferring the
11 charges, and authorized by law to take testimony of witnesses by
12 deposition, to notify such notary public to appear before him or her on a
13 day and at an hour certain, after at least ten days from the day of
14 service of such notice. At such appearance, the notary public may show
15 cause as to why his or her commission should not be canceled or
16 temporarily revoked. The appointee may issue subpoenas to require the
17 attendance and testimony of witnesses and the production of any pertinent
18 records, papers, or documents, may administer oaths, and may accept any
19 evidence he or she deems pertinent to a proper determination of the
20 charge. The notary public may appear, at such time and place, and cross-
21 examine witnesses and produce witnesses in his or her behalf. Upon the
22 receipt of such examination, duly certified in the manner prescribed for
23 taking depositions to be used in suits in the district courts of this
24 state, the Secretary of State shall examine the same, and if therefrom he
25 or she finds that the notary public is guilty of acts of malfeasance in
26 office, he or she may remove the person charged from the office of notary
27 public or temporarily revoke such person's commission. Within fifteen
28 days after such removal or revocation and notice thereof, such notary
29 public shall deposit, with the Secretary of State, the commission as
30 notary public and notarial seal. The commission shall be canceled or
31 temporarily revoked by the Secretary of State. A person so removed from

1 office shall be forever disqualified from holding the office of notary
2 public. A person whose commission is temporarily revoked shall be
3 returned his or her commission and seal upon completion of the revocation
4 period and passing the examination described in section 64-101.01. The
5 fees for taking such testimony shall be paid by the state at the same
6 rate as fees for taking depositions by notaries public. The failure of
7 the notary public to deposit his or her commission and seal with the
8 Secretary of State as required by this section shall subject him or her
9 to a penalty of one thousand dollars, to be recovered in the name of the
10 state.

11 (2) For purposes of this section, malfeasance in office means, while
12 serving as a notary public, (a) failure to follow the requirements and
13 procedures for notarial acts provided for in Chapter 64, ~~articles 1 and~~
14 ~~2,~~ (b) violating the confidentiality provisions of section 71-6911, or
15 (c) being convicted of a felony or other crime involving fraud or
16 dishonesty.

17 Sec. 22. Section 64-203, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 64-203 (1) The person taking an acknowledgment shall certify that:

20 (a) ~~(1)~~ The person acknowledging appeared before him or her and
21 acknowledged he or she executed the instrument; and

22 (b) ~~(2)~~ The person acknowledging was known to the person taking the
23 acknowledgment or that the person taking the acknowledgment had
24 satisfactory evidence that the person acknowledging was the person
25 described in and who executed the instrument.

26 (2) For purposes of this section, appearance before the person
27 taking an acknowledgement includes an appearance outside the presence of
28 a notary public if such acknowledgement was completed in accordance with
29 the Online Notary Public Act.

30 Sec. 23. Section 64-205, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 64-205 (1) The words acknowledged before me means:

2 (a) ~~(1)~~ That the person acknowledging appeared before the person
3 taking the acknowledgment;

4 (b) ~~(2)~~ That he or she acknowledged he or she executed the
5 instrument;

6 (c) ~~(3)~~ That, in the case of:

7 (i) A natural person, he or she executed the instrument for the
8 purposes therein stated;

9 (ii) A corporation, the officer or agent acknowledged he or she held
10 the position or title set forth in the instrument and certificate, he or
11 she signed the instrument on behalf of the corporation by proper
12 authority and the instrument was the act of the corporation for the
13 purpose therein stated;

14 (iii) A partnership, the partner or agent acknowledged he or she
15 signed the instrument on behalf of the partnership by proper authority
16 and he or she executed the instrument as the act of the partnership for
17 the purposes therein stated;

18 (iv) A limited liability company, the member or agent acknowledged
19 he or she signed the instrument on behalf of the limited liability
20 company by proper authority and he or she executed the instrument as the
21 act of the limited liability company for the purposes therein stated;

22 (v) A person acknowledging as principal by an attorney in fact, he
23 or she executed the instrument by proper authority as the act of the
24 principal for the purposes therein stated; or

25 (vi) A person acknowledging as a public officer, trustee,
26 administrator, guardian, or other representative, he or she signed the
27 instrument by proper authority and he or she executed the instrument in
28 the capacity and for the purposes therein stated; and

29 (d) ~~(4)~~ That the person taking the acknowledgment either knew or had
30 satisfactory evidence that the person acknowledging was the person named
31 in the instrument or certificate.

1 (2) For purposes of this section, appearance before the person
2 taking an acknowledgement includes an appearance outside the presence of
3 a notary public if such acknowledgement was completed in accordance with
4 the Online Notary Public Act.

5 Sec. 24. Section 84-618, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 84-618 (1) The Treasury Management Cash Fund is created. A pro rata
8 share of the budget appropriated for the treasury management functions of
9 the State Treasurer and for the administration of the achieving a better
10 life experience program as provided in sections 77-1401 to 77-1409 shall
11 be charged to the income of each fund held in invested cash, and such
12 charges shall be transferred to the Treasury Management Cash Fund. The
13 allocation of charges may be made by any method determined to be
14 reasonably related to actual costs incurred by the State Treasurer in
15 carrying out the treasury management functions under section 84-602 and
16 in carrying out the achieving a better life experience program as
17 provided in sections 77-1401 to 77-1409. Approval of the agencies,
18 boards, and commissions administering these funds shall not be required.

19 (2) It is the intent of this section to have funds held in invested
20 cash be charged a pro rata share of such expenses when this is not
21 prohibited by statute or the Constitution of Nebraska.

22 (3) The Treasury Management Cash Fund shall be used for the treasury
23 management functions of the State Treasurer and for the administration of
24 the achieving a better life experience program as provided in sections
25 77-1401 to 77-1409. To the extent permitted by section 529A as defined in
26 section 77-1401, the fund may receive gifts for administration,
27 operation, and maintenance of a program established under sections
28 77-1403 to 77-1409.

29 (4) Transfers may be made from the Treasury Management Cash Fund to
30 the General Fund at the direction of the Legislature. Any money in the
31 Treasury Management Cash Fund available for investment shall be invested

1 by the state investment officer pursuant to the Nebraska Capital
2 Expansion Act and the Nebraska State Funds Investment Act.

3 (5) On or before July 5, 2019, or as soon thereafter as possible,
4 the State Treasurer shall transfer eighty-two thousand one hundred sixty-
5 seven dollars from the Treasury Management Cash Fund to the General Fund.
6 On or before July 1, 2020, the State Treasurer shall transfer twenty-
7 seven thousand six hundred eighty-two dollars from the Treasury
8 Management Cash Fund to the General Fund.

9 Sec. 25. Section 86-611, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 86-611 (1) It is the intent of the Legislature to promote economic
12 growth and the efficient operation of business and government in Nebraska
13 through the electronic exchange of information and legally binding
14 electronic transactions. In order to facilitate the electronic exchange
15 of information, Nebraska must establish means to ensure that electronic
16 transactions are legally binding and enforceable, while ensuring that
17 security measures are in place to prevent opportunities for fraud and
18 misuse.

19 (2) In any written communication in which a signature is required or
20 used, any party to the communication may affix a signature by use of a
21 digital signature that complies with the requirements of this section.
22 The use of a digital signature shall have the same force and effect as
23 the use of a manual signature if and only if it embodies all of the
24 following attributes:

- 25 (a) It is unique to the person using it;
- 26 (b) It is capable of verification;
- 27 (c) It is under the sole control of the person using it;
- 28 (d) It is linked to data in such a manner that if the data is
29 changed, the digital signature is invalidated; and
- 30 (e) It conforms to rules and regulations adopted and promulgated by
31 the Secretary of State.

1 (3) In any communication in which a signature is required or used, a
2 state agency or political subdivision may accept a digital signature or
3 an electronic signature and may accept the communication in electronic
4 format. Any use of a digital signature, an electronic signature, or an
5 electronic communication by a court is subject to the rules of the
6 Supreme Court.

7 (4) The Secretary of State shall adopt and promulgate rules and
8 regulations to carry out this section which:

9 (a) Identify and define the type of signature which may be used in
10 the electronic communications governed by the rules and regulations;

11 (b) Identify and define the type of electronic communications for
12 which a digital signature or an electronic signature may be used; and

13 (c) Provide a degree of security reasonably related to the risks and
14 consequences of fraud or misuse for the type of electronic communication
15 which, at a minimum, shall require the maintenance of an audit trail of
16 the assignment or approval and the use of the unique access code or
17 unique electronic identifier.

18 (5) This section shall not be construed to invalidate digital
19 signatures, electronic signatures, or electronic communications which are
20 valid under any other applicable law.

21 (6) Unless otherwise provided by law, the use or acceptance of a
22 digital signature or an electronic signature shall be at the option of
23 the parties to the communication. This section shall not be construed to
24 require a person to use or permit the use of a digital signature or
25 electronic signature.

26 (7) In developing the rules and regulations, the Secretary of State
27 shall seek the advice of public and private entities, including the
28 Department of Administrative Services.

29 (8) The register of deeds or county clerk of each county shall
30 provide one or more electronic recording services for the purpose of
31 accepting electronically submitted real estate documents for recording.

1 (9) ~~(8)~~ For purposes of this section:

2 (a) Electronic signature means a unique access code or other unique
3 electronic identifier assigned or approved by the state agency for use in
4 communications with the state agency;

5 (b) Digital signature means an electronic identifier, created by
6 computer, intended by the person using it to have the same force and
7 effect as a manual signature; and

8 (c) State agency means any agency, board, court, or constitutional
9 officer of the executive, judicial, and legislative branches of state
10 government, except individual members of the Legislature.

11 Sec. 26. The Revisor of Statutes shall assign sections 1 to 18 of
12 this act to a new article in Chapter 64.

13 Sec. 27. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
14 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, and 29 of this act become
15 operative on July 1, 2020. The other sections of this act become
16 operative on their effective date.

17 Sec. 28. Original section 84-618, Revised Statutes Cumulative
18 Supplement, 2018, is repealed.

19 Sec. 29. Original sections 64-105, 64-113, 64-203, 64-205, and
20 86-611, Reissue Revised Statutes of Nebraska, and section 23-1503.01,
21 Revised Statutes Cumulative Supplement, 2018, are repealed.

22 Sec. 30. Since an emergency exists, this act takes effect when
23 passed and approved according to law.