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Via email:

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Hon. Michael Adams, Co-Chair
Hon. Shenna Bellows, Co-Chair
National Association of Secretaries of State
Business Service Committee
444 North Capitol St., NW, Suite 401
Washington, D.C. 20001

RE: Request for State Issuance of Electronic Apostilles (e-APP)

Dear Secretaries Bullock, Ashcroft, Rodriguez, LaRose, Scott, and James:

The American College of Trust and Estate Counsel ("ACTEC") is a professional organization of approximately 2,500 lawyers from throughout the United States. Fellows of ACTEC are elected to membership by their peers on the basis of professional reputation and ability in the fields of trusts and estates and on the basis of having made substantial contributions to those fields through lecturing, writing, teaching, and bar activities. Fellows of ACTEC have extensive experience in providing advice to taxpayers on matters of personal income tax, transfer tax, and retirement plan rules, and providing advice to IRA and retirement plan administrators on plan administration. ACTEC offers technical comments about laws affecting income tax matters, transfer taxes, and retirement plan laws, and the effective administration of such laws, but ACTEC does not take positions on matters of policy or political objectives.

ACTEC is pleased to support the implementation of the electronic apostille mechanism by the U.S. states. Each Secretary of State should seek his or her own legal advice, but from our review of the laws, the implementation of the electronic apostille mechanism by each state does not appear to require any additional legislation or act of the Governor; it lies in the hands of the Secretary of State of each U.S. state to pursue this initiative.

An apostille is a certification of a document's authenticity. It is often an essential requirement for official documents to be used in a cross-border context. This clearly affects

the constituents of each state. The Apostille Convention (formerly known as the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents), is an international treaty drafted by the Hague Conference on Private International Law (HCCH). The basic purpose of the Convention is to abolish the traditional requirement of legalization, replacing the often long and costly legalization process with the issuance of a single Apostille certificate by a Competent Authority in the place where the document originates. The United States, together with 119 other countries, is a party to the Apostille Convention.

Implementing both e-Apostilles and e-Registers, have been a positive change for the adopting countries and states because they enable business to be done much more efficiently (particularly during the ongoing pandemic). For more information on this, we enclose a publication from HCCH entitled: "Background Note on the e-APP", also found at this link: <https://assets.hcch.net/docs/764f82b4-a8d6-4073-8e1b-4db0f12c880e.pdf>

ACTEC hopes you will recommend to the Secretaries of State to approve the implementation of this mechanism in their states. Having the availability of electronic apostilles will dramatically improve services relating to international matters of interest to United States citizens in the context of property, succession, birth, marriage, divorce and other cross-border activities. First, the availability of electronic apostilles and e-registries will result in enhanced document security by preventing the misfiling or destruction of certified documents and enabling ease of approving the fact of apostille issuance. Second, it will eliminate mailing delays and losses associated with obtaining and sending paper apostilles. Third, it will eliminate mailing delays/losses in sending authenticated documents to receiving countries. In addition, experience in the 41 countries that have implemented the e-APP, since its inception in 2006, has borne out the benefits of the program.

ACTEC recognizes the benefits in implementing electronic apostilles, which would be of tremendous use to each state and those dealing with each state. As adopted, our research indicates that it requires no legislative action, although each state should confirm whether this is true in its state. We think the filing fees should cover all related costs, and the security measures can be addressed by selecting software that has already been vetted by other countries around the world. Accordingly, on behalf of ACTEC, we urge NASS to encourage the Secretaries of State to adopt both components of the e-APP (e-Apostilles and e-Registers for apostilles).

Because of the growing number of states that have enacted electronic and/or online notarization laws since 2016, we are now requesting that NASS endorse a policy of active e-APP implementation.

If you or members of NASS staff would like to discuss the contents of this letter with the ACTEC Fellows who created it, please contact Leigh-Alexandra Basha (202) 756-8338, lbasha@mwe.com or Gerard Brew GBrew@McCarter.com who worked on this initiative, or Deborah McKinnon, ACTEC Executive Director, at (202) 684-8460 or domckinnon@actec.org.

With highest regard,



Robert W. Goldman
President of ACTEC