

Senate Bill No. 33–Committee on Judiciary

CHAPTER.....

AN ACT relating to probate; providing for the use of electronic wills and electronic trusts; providing for a declaration of attesting witnesses to a will; revising provisions governing the appeal of a contest of a will; revising provisions governing the summary administration of an estate; providing for the application of certain provisions governing estates to provisions governing trusts; revising various other provisions governing probate; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 132 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in this Title, unless the context otherwise requires, when the term “writing” or “written” is used in reference to a will, the term includes an electronic will.*

Sec. 3. *“Electronic record” means a record created, generated or stored by electronic means.*

Sec. 4. *“Electronic signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.*

Sec. 5. *“Electronic will” means a testamentary document that complies with the requirements of section 9 of this act.*

Sec. 6. *“Record” means information that is inscribed on a tangible medium, or that is stored in an electronic medium and is retrievable in perceivable form.*

Sec. 7. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this Title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, *and sections 3 to 6, inclusive, of this act*, have the meanings ascribed to them in those sections.

Sec. 8. NRS 132.070 is hereby amended to read as follows:

132.070 “Codicil” means an addition to a will that may modify or revoke one or more provisions of the will, or add one or more provisions to the will, and is signed with the same formalities as a witnessed *will, electronic will* or holographic will.

Sec. 9. Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An electronic will is a will of a testator that:

(a) Is written, created and stored in an electronic record;
(b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one authentication characteristic of the testator; and

(c) Is created and stored in such a manner that:

- (1) Only one authoritative copy exists;*
- (2) The authoritative copy is maintained and controlled by the testator or a custodian designated by the testator in the electronic will;*
- (3) Any attempted alteration of the authoritative copy is readily identifiable; and*

(4) Each copy of the authoritative copy is readily identifiable as a copy that is not the authoritative copy.

2. Every person of sound mind over the age of 18 years may, by last electronic will, dispose of all of his estate, real and personal, but the estate is chargeable with the payment of the testator's debts.

3. An electronic will that meets the requirements of this section is subject to no other form, and may be made in or out of this state. An electronic will is valid and has the same force and effect as if formally executed.

4. An electronic will shall be deemed to be executed in this state if the authoritative copy of the electronic will is:

(a) Transmitted to and maintained by a custodian designated in the electronic will at his place of business in this state or at his residence in this state; or

(b) Maintained by the testator at his place of business in this state or at his residence in this state.

5. The provisions of this section do not apply to a trust other than a trust contained in an electronic will.

6. As used in this section:

(a) "Authentication characteristic" means a characteristic of a certain person that is unique to that person and that is capable of measurement and recognition in an electronic record as a biological aspect of or physical act performed by that person. Such a characteristic may consist of a fingerprint, a retinal scan, voice recognition, facial recognition, a digitized signature or other authentication using a unique characteristic of the person.

(b) "Authoritative copy" means the original, unique, identifiable and unalterable electronic record of an electronic will.

(c) "Digitized signature" means a graphical image of a handwritten signature that is created, generated or stored by electronic means.

Sec. 10. NRS 133.040 is hereby amended to read as follows:

133.040 No will executed in this state, except such *electronic wills or* holographic wills as are mentioned in this chapter, is valid unless it is in writing and signed by the testator, or by an attending person at the testator's express direction, and attested by at least two competent witnesses who subscribe their names to the will in the presence of the testator.

Sec. 11. NRS 133.045 is hereby amended to read as follows:

133.045 1. Whether or not the provisions relating to *electronic wills and* holographic wills apply, a will may refer to a written statement or list, *including, without limitation, a written statement or list contained in an electronic record*, to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, securities and property used in a trade or business.

2. To be admissible as evidence of the intended disposition, the statement or list must contain:

(a) The date of its execution.

(b) A title indicating its purpose.

(c) A reference to the will to which it relates.

that they thereafter subscribed the will as witnesses in the presence of the testator and in the presence of each other and at the request of the testator; and that the testator at the time of the execution of the will appeared to them to be of full age and of sound mind and memory.

Dated this day of,

..... Declarant

..... Declarant

Sec. 13. NRS 133.080 is hereby amended to read as follows:

133.080 1. If in writing and subscribed by the testator, a last will and testament executed outside this state in the manner prescribed by the law, either of the state where executed or of the testator’s domicile, shall be deemed to be legally executed, and is of the same force and effect as if executed in the manner prescribed by the law of this state.

2. This section must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

3. As used in this section, “subscribed” includes, without limitation, placing an electronic signature on an electronic will.

Sec. 14. NRS 134.070 is hereby amended to read as follows:

134.070 If the decedent leaves no issue, surviving spouse, or father or mother, and no brother or sister living at the time of death, the estate goes to the next of kin in equal degree, except that if there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestors are preferred to those who claim through ancestors more remote. ~~If any person dies leaving several children, or leaving a child and issue of one or more children, and any such surviving child dies under age and not having been married, all the estate that came to the deceased child by inheritance from the deceased parent descends in equal shares to the other children of the same parent, and to the issue of any other children who may have died, by right of representation.~~

Sec. 15. NRS 134.080 is hereby amended to read as follows:

134.080 *1.* At the death of a child who is under age , *who is without issue* and *who* has not been married, all the other children of the parent being also dead, if any of the other children left issue, the estate that came to the child by inheritance from the parent descends to all the issue of the other children of the same parent, and if all the issue are in the same degree of kindred to the child , they are entitled to share the estate equally; otherwise, they are entitled to take according to the right of representation.

2. If any person dies leaving several children, or leaving a child and issue of one or more children, and any such surviving child dies under age, without issue and not having been married, all the estate that came to the deceased child by inheritance from the deceased parent descends in equal shares to the other children of the same parent, and to the issue of any other children of the same parent who may have died, by right of representation.

Sec. 16. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

An electronic will may be proved by authentication satisfactory to the court.

Sec. 17. NRS 137.140 is hereby amended to read as follows:

137.140 An appeal from a final order determining the contest of a will is governed by the Nevada Rules of Appellate Procedure ~~H~~, *and the notice of appeal must be filed with the clerk of the district court not later than 30 days after the date of service of written notice of entry of a final order.* A party may make any motion after the determination that is provided by the Nevada Rules of Civil Procedure.

Sec. 18. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration who:

1. Is under the age of majority;
2. Has been convicted of a felony;
3. Upon proof, is adjudged by the court disqualified by reason of *conflict of interest*, drunkenness, improvidence or lack of integrity or understanding; or
4. Is not a resident of the State of Nevada *and who does not associate as coadministrator a resident of the State of Nevada* or which, in the case of a banking corporation, is not authorized to do business in this state ~~or~~ *and does not associate as coadministrator a resident of the State of Nevada or* a banking corporation authorized to do business in this state.

Sec. 19. NRS 139.040 is hereby amended to read as follows:

139.040 1. Administration of the intestate estate of a decedent must be granted to one or more of the persons mentioned in this section, and they are respectively entitled to priority for appointment in the following order:

- (a) The surviving spouse.
 - (b) The children.
 - (c) The father or the mother.
 - (d) The brother or the sister.
 - (e) The grandchildren.
 - (f) Any other of the kindred entitled to share in the distribution of the estate.
 - (g) ~~Creditors who have become such during the lifetime of the decedent.~~
 - ~~(h)~~ The public administrator.
 - (h) Creditors who have become such during the lifetime of the decedent.*
 - (i) Any of the kindred not above enumerated, within the fourth degree of consanguinity.
 - (j) Any person or persons legally qualified.
2. A person in each of the foregoing classes is entitled:
- (a) To appointment, if ~~he is a~~ *the person is:*
 - (1) A resident of the State of Nevada or ~~is a~~ associates as coadministrator a resident of the State of Nevada; or*
 - (2) A banking corporation which is authorized to do business in this state or which associates as coadministrator a resident of the State of Nevada or* a banking corporation authorized to do business in this state.
 - (b) To nominate a resident of the State of Nevada or a qualified banking corporation for appointment, whether or not the nominator is a resident of the State of Nevada or a qualified banking corporation. The nominee has

the same priority as the nominator. That priority is independent of the residence or corporate qualification of the nominator.

3. *If any heir who is otherwise entitled to appointment is a minor or an incompetent person for whom a guardian has been appointed, the court may appoint the guardian of the minor or incompetent person as administrator.*

Sec. 20. NRS 143.037 is hereby amended to read as follows:

143.037 1. Except as otherwise provided in this section, a personal representative shall close an estate within 18 months after appointment.

2. If a claim against the estate is in litigation or in summary determination pursuant to subsection ~~4~~ 5 of NRS 145.060 or subsection 2 of NRS 147.130 or the amount of federal estate tax has not been determined, the court, upon petition of a devisee, creditor or heir, shall order that:

(a) A certain amount of money, or certain other assets, be retained by the personal representative to:

(1) Satisfy the claim or tax; and

(2) Pay any fees or costs related to the claim or tax, including fees for appraisals, attorney's fees and court costs; and

(b) The remainder of the estate be distributed.

3. If a contest of the will or a proceeding to determine heirship is pending, the court which appointed the personal representative:

(a) Shall order that a certain amount of money, or certain other assets, be retained and the remainder of the estate distributed; or

(b) May, for good cause shown, order that the entire distributable estate be retained pending disposition of the contest or proceeding.

Sec. 21. NRS 143.170 is hereby amended to read as follows:

143.170 ~~1A~~ ***Unless approved in advance by a court after application, notice and a hearing on the matter, a*** personal representative shall not directly or indirectly purchase any property of the estate represented by the personal representative.

Sec. 22. NRS 145.010 is hereby amended to read as follows:

145.010 The provisions of this chapter ~~shall~~ apply only to estates of which summary administration ~~shall be~~ is ordered. ***Upon the granting of summary administration, all regular proceedings and further notices required by this Title are waived, except for the notices required by NRS 144.010, 145.060, 145.070 and 145.075.***

Sec. 23. NRS 145.060 is hereby amended to read as follows:

145.060 1. ***A personal representative shall publish and mail notice to creditors in the manner provided in NRS 155.020.***

2. Creditors of the estate must file their claims, due or to become due, with the clerk, within 60 days after the mailing to the creditors for those required to be mailed, or 60 days after the first publication of the notice to creditors pursuant to NRS 155.020, and within 10 days thereafter the personal representative shall allow or reject the claims filed.

~~2~~ 3. Any claim which is not filed within the 60 days is barred forever, except that if it is made to appear, by the affidavit of the claimant or by other proof to the satisfaction of the court, that the claimant did not have notice as provided in NRS 155.020, the claim may be filed at any time before the filing of the final account.

~~13.1~~ 4. Every claim which is filed as provided in this section and allowed by the personal representative, must then, and not until then, be ranked as an acknowledged debt of the estate and be paid in the course of administration, except that payment of small debts in advance may be made pursuant to subsection 3 of NRS 150.230.

~~14.1~~ 5. If a claim filed by the welfare division of the department of human resources is rejected by the personal representative, the state welfare administrator may, within 20 days after receipt of the written notice of rejection, petition the court for summary determination of the claim. A petition for summary determination must be filed with the clerk, who shall set the petition for hearing, and the petitioner shall give notice for the period and in the manner required by NRS 155.010. Allowance of the claim by the court is sufficient evidence of its correctness, and it must be paid as if previously allowed by the personal representative.

Sec. 24. NRS 146.080 is hereby amended to read as follows:

146.080 1. If a decedent leaves no real property, nor interest therein, nor mortgage or lien thereon, in this state, and the gross value of the decedent's property in this state, over and above any amounts due to the decedent for services in the Armed Forces of the United States, does not exceed \$20,000, a person who has a right to succeed to the property of the decedent ~~under~~ *pursuant to* the laws of succession for a decedent who died intestate or ~~under~~ *pursuant to* the valid will of a decedent who died testate, on behalf of all persons entitled to succeed to the property claimed, or the state welfare administrator or public administrator on behalf of the state or others entitled to the property, may, 40 days after the death of the decedent, without procuring letters of administration or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to the claimant upon furnishing the person, representative, corporation, officer or body owing the money, having custody of the property or acting as registrar or transfer agent of the evidences of interest, indebtedness or right, with an affidavit showing the right of the affiant or affiants to receive the money or property or to have the evidence transferred.

2. An affidavit made pursuant to this section must state:

(a) The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;

(b) ~~[That the decedent was a resident of Nevada at the time of death;]~~
The date and place of death of the decedent;

(c) That the gross value of the decedent's property in this state, except amounts due to the decedent for services in the Armed Forces of the United States, does not exceed \$20,000, and that the property does not include any real property nor interest therein, nor mortgage or lien thereon;

(d) That at least 40 days have elapsed since the death of the decedent ~~;~~
, as shown in a certified copy of the certificate of death of the decedent attached to the affidavit;

(e) That no petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent, including funeral and burial expenses, and money owed to the department of human resources as a result of the payment of benefits for Medicaid, have been paid or provided for;

(g) A description of the personal property and the portion claimed;

(h) That the affiant has given written notice, by personal service or by certified mail, identifying the affiant's claim and describing the property claimed, to every person whose right to succeed to the decedent's property is equal or superior to that of the affiant, and that at least 14 days have elapsed since the notice was served or mailed;

(i) That the affiant is personally entitled, or the department of human resources is entitled, to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property; and

(j) That the affiant acknowledges an understanding that filing a false affidavit constitutes a felony in this state.

3. If the affiant:

(a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property the affiant receives is subject to all debts of the decedent.

(b) Fails to give notice to other successors as required by subsection 2, any money or property the affiant receives is held by the affiant in trust for all other successors who have an interest in the property.

4. A person who receives an affidavit containing the information required by subsection 2 is entitled to rely upon that information, and if the person relies in good faith, the person is immune from civil liability for actions based on that reliance.

5. Upon receiving proof of the death of the decedent and an affidavit containing the information required by this section:

(a) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to succeed to ownership of that security.

(b) A governmental agency required to issue certificates of ownership or registration to personal property shall issue a new certificate of ownership or registration to the person claiming to succeed to ownership of the property.

6. If any property of the estate not exceeding \$20,000 is located in a state which requires an order of a court for the transfer of the property, or if the estate consists of stocks or bonds which must be transferred by an agent outside this state, any person qualified ~~under~~ *pursuant to* the provisions of subsection 1 to have the stocks or bonds or other property transferred may do so by obtaining a court order directing the transfer. The person desiring the transfer must file a petition, which may be ex parte, containing:

(a) A specific description of all the property of the decedent.

(b) A list of all the liens and mortgages of record at the date of the decedent's death.

(c) An estimate of the value of the property of the decedent.

(d) The names, ages of any minors, and residences of the decedent's heirs and devisees.

(e) A request for the court to issue an order directing the transfer of the stocks or bonds or other property if the court finds the gross value of the estate does not exceed \$20,000.

(f) An attached copy of the executed affidavit made pursuant to subsection 2.

If the court finds that the gross value of the estate does not exceed \$20,000 and the person requesting the transfer is entitled to it, the court may enter an order directing the transfer.

Sec. 25. NRS 147.110 is hereby amended to read as follows:

147.110 1. Within 15 days after the time for filing claims has expired, as provided in this chapter, the personal representative shall examine all claims filed and shall either endorse on each claim an allowance or rejection, with the day and the year thereof, or shall file a notice of allowance or rejection with the date and the year thereof, and the notice of allowance or rejection must be attached to the claim allowed or rejected and filed with the clerk.

2. If a personal representative refuses or neglects to endorse on a claim an allowance or rejection within 15 days, as specified in this section, or does not file a notice of allowance or rejection, the claim shall be deemed rejected, but the personal representative may, nevertheless, allow the claim at any time before the filing of the final account.

3. ~~If a claim is deemed rejected pursuant to subsection 2, the personal representative must, not more than 10 days after the rejection, provide written notice of the rejection by registered mail to all affected creditors.~~

~~4.~~ A personal representative need not allow or reject a claim that was not timely filed unless the court otherwise orders.

Sec. 26. NRS 148.220 is hereby amended to read as follows:

148.220 1. Notice of the time and place of sale of real property must be published in a newspaper published in the county in which the property, or some portion of the property, is located, if there is one so published, and if not, then in such paper as the court directs, for 2 weeks, being three publications, 1 week apart, before the day of sale or, in the case of a private sale, before the day on or after which the sale is to be made. For good cause shown, the court may decrease the number of publications to one and shorten the time for publication to a period not less than 8 days.

2. *If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate consent in writing, the court may waive the requirement of publication.*

3. If it appears from the inventory and appraisal that the value of the property to be sold does not exceed \$5,000, the personal representative may ~~dispense with~~ *waive* the *requirement of* publication and, in lieu thereof, post a notice of the time and place of sale in three of the most public places in the county in which the property, or some portion of the property, is located, for 2 weeks before the day of the sale or, in the case of a private sale, before the day on or after which the sale is to be made.

~~3.~~ 4. The property proposed to be sold must be described with common certainty in the notice.

Sec. 27. Chapter 150 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of this chapter, the court may waive the requirement of any accounting if all interested persons agree in writing to the waiver.

Sec. 28. NRS 150.180 is hereby amended to read as follows:

150.180 1. If a minor is interested in the estate who has no legally appointed guardian, the court may appoint a disinterested attorney to represent him who may contest the account as any other interested person might contest it.

2. The court may also appoint an attorney to represent unborn, incapacitated or absent heirs and devisees.

3. ~~All matters, including allowed claims not addressed in the settlement of any former account, or in entering an order of sale, may be contested by interested persons for cause shown.~~

~~4.~~ An attorney so appointed must be paid as provided in NRS 150.060.

Sec. 29. NRS 150.310 is hereby amended to read as follows:

150.310 1. If it appears upon any accounting, or in any appropriate action or proceeding, that a personal representative, trustee or other fiduciary has paid or may be required to pay an estate tax to the Federal Government under the provisions of any federal estate tax law, now existing or hereafter enacted, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax must be equitably prorated among the persons interested in the estate, whether residents or nonresidents of this state, to whom the property was, is or may be transferred or to whom any benefit accrues, except:

~~1.~~ (a) Where a testator otherwise directs in his will.

~~2.~~ (b) Where by written instrument, *including, without limitation, an electronic trust*, executed inter vivos direction is given for apportionment among the beneficiaries of taxes assessed upon the specific fund dealt with in the instrument.

2. *As used in this section, "electronic trust" has the meaning ascribed to it in section 38 of this act.*

Sec. 30. NRS 155.190 is hereby amended to read as follows:

155.190 In addition to any order from which an appeal is expressly permitted by this Title, an appeal may be taken to the supreme court within 30 days after ~~its entry from~~ *the notice of entry of* an order:

1. Granting or revoking letters testamentary or letters of administration.

2. Admitting a will to probate or revoking the probate thereof.

3. Setting aside an estate claimed not to exceed \$50,000 in value.

4. Setting apart property as a homestead, or claimed to be exempt from execution.

5. Granting or modifying a family allowance.

6. Directing or authorizing the sale or conveyance or confirming the sale of property.

7. Settling an account of a personal representative or trustee.

8. Instructing or appointing a trustee.

- 9. Instructing or directing a personal representative.
- 10. Directing or allowing the payment of a debt, claim, devise or attorney's fee.
- 11. Determining heirship or the persons to whom distribution must be made or trust property must pass.
- 12. Distributing property.
- 13. Refusing to make any order mentioned in this section or any decision wherein the amount in controversy equals or exceeds, exclusive of costs, \$5,000.
- 14. Granting or denying a motion to enforce the liability of a surety filed pursuant to NRS 142.035.
- 15. Granting an order for conveyance or transfer pursuant to NRS 148.410.

Sec. 31. NRS 53.045 is hereby amended to read as follows:

53.045 ~~{1. Except as otherwise provided in subsection 2, any}~~ Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated, in substantially the following form:

~~{(a)}~~ 1. If executed in this state: "I declare under penalty of perjury that the foregoing is true and correct."

Executed on
(date) (signature)

~~{(b)}~~ 2. If executed outside this state: "I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct."

Executed on
(date) (signature)

~~{2. This section does not dispense with a requirement of a witness to or the authentication of a signature, or the requirements of NRS 133.050 or a similar statute.}~~

Sec. 32. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, unless the context otherwise requires, when the term "writing" or "written" is used in reference to a will or instrument, the term includes an electronic will as defined in section 5 of this act and an electronic trust as defined in section 38 of this act.

Sec. 33. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 34 to 40, inclusive, of this act.

Sec. 34. *As used in this chapter, unless the context otherwise requires, when the term "writing" or "written" is used in reference to a will, trust or instrument to convey property, the term includes an electronic will as defined in section 5 of this act or an electronic trust as defined in section 38 of this act, as appropriate.*

Sec. 35. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 36 to 39, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 36. *"Electronic record" has the meaning ascribed to it in section 3 of this act.*

Sec. 37. *“Electronic signature” has the meaning ascribed to it in section 4 of this act.*

Sec. 38. *“Electronic trust” means a trust instrument that complies with the requirements of section 40 of this act.*

Sec. 39. *“Record” has the meaning ascribed to it in section 6 of this act.*

Sec. 40. *1. An electronic trust is a trust instrument that:*

- (a) Is written, created and stored in an electronic record;*
- (b) Contains the electronic signature of the settlor; and*
- (c) Meets the requirements set forth in this chapter for a valid trust.*

2. An electronic trust shall be deemed to be executed in this state if the electronic trust is:

(a) Transmitted to and maintained by a custodian designated in the trust instrument at his place of business in this state or at his residence in this state; or

(b) Maintained by the settlor at his place of business in this state or at his residence in this state, or by the trustee at his place of business in this state or at his residence in this state.

3. The provisions of this section do not apply to a testamentary trust.

Sec. 41. NRS 163.008 is hereby amended to read as follows:

163.008 1. A trust created in relation to real property is not valid unless it is created by operation of law or is evidenced by:

(a) A written instrument signed by the trustee, or by the agent of the trustee if he is authorized in writing to do so; or

(b) A written instrument *, including, without limitation, an electronic trust*, conveying the trust property and signed by the settlor, or by the agent of the settlor if he is authorized in writing to do so.

2. Such a trust may be recorded in the office of the county recorder in the county where all or a portion of the real property is located.

Sec. 42. NRS 163.260 is hereby amended to read as follows:

163.260 1. By an expressed intention of the testator or settlor ~~to~~ to do *so* contained in a will, or in an instrument in writing whereby a trust estate is created inter vivos, any or all of the powers or any portion thereof enumerated in NRS 163.265 to 163.410, inclusive, as they exist at the time ~~of the signing of the will by~~ *that the testator signs the will or places his electronic signature on the will, if it is an electronic will*, or at the time ~~of the signing by~~ *that the first settlor ~~who~~ signs the trust instrument ~~to~~ or places his electronic signature on the trust instrument, if it is an electronic trust*, may be, by appropriate reference made thereto, incorporated in such will or other written instrument, with the same effect as though such language were set forth verbatim in the instrument. Incorporation of one or more of the powers contained in NRS 163.265 to 163.410, inclusive, by reference to the proper section shall be in addition to and not in limitation of the common law or statutory powers of the fiduciary.

2. A fiduciary shall not exercise any power or authority conferred as provided in NRS 163.260 to 163.410, inclusive, in such a manner as, in the aggregate, to deprive the trust or the estate involved of an otherwise available tax exemption, deduction or credit, expressly including the marital deduction, or operate to impose a tax upon a donor or testator or

other person as owner of any portion of the trust or estate involved. "Tax" includes, but is not limited to, any federal income, gift, estate or inheritance tax.

3. This section does not prevent the incorporation of the powers enumerated in NRS 163.265 to 163.410, inclusive, in any other kind of instrument or agreement.

4. *As used in this section, "electronic will" has the meaning ascribed to it in section 5 of this act.*

Sec. 43. NRS 163.590 is hereby amended to read as follows:

163.590 1. ~~1A~~ ***Whether or not the provisions relating to electronic trusts apply, a*** trust may refer to a written statement or list, ***including, without limitation, a written statement or list contained in an electronic record,*** to dispose of items of tangible personal property not otherwise specifically disposed of by the trust, other than money, evidences of indebtedness, documents of title, securities and property used in a trade or business.

2. To be admissible as evidence of the intended disposition, the statement or list must contain:

- (a) The date of its execution.
- (b) A title indicating its purpose.
- (c) A reference to the trust to which it relates.
- (d) A reasonably certain description of the items to be disposed of and the beneficiaries.

(e) The ***handwritten*** signature ***or electronic signature*** of the settlor.

3. The statement or list may be:

- (a) Referred to as a writing to be in existence at the death of the settlor.
- (b) Prepared before or after the execution of the trust instrument.
- (c) Altered by the settlor after its preparation.
- (d) A writing which has no significance apart from its affect upon the dispositions made by the trust.

Sec. 44. Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:

When not otherwise inconsistent with the provisions of chapters 162 to 167, inclusive, of NRS, all of the provisions of chapters 132, 153 and 155 of NRS regulating the matters of estates:

1. Apply to proceedings relating to trusts, as appropriate; or

2. May be applied to supplement the provisions of chapters 162 to 167, inclusive, of NRS.

Sec. 45. NRS 164.010 is hereby amended to read as follows:

164.010 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which the trustee resides or conducts business, or in which the trust has been domiciled, shall consider the application to confirm the appointment of the trustee and specify the manner in which the trustee must qualify. Thereafter the court has jurisdiction of the trust as a proceeding in rem.

2. If the court grants the petition, it may consider at the same time any petition for instructions filed with the petition for confirmation.

3. At any time, the trustee may petition the court for removal of the trust from continuing jurisdiction of the court.

4. As used in this section, "written instrument" includes, without limitation, an electronic trust as defined in section 38 of this act.

Sec. 46. NRS 164.025 is hereby amended to read as follows:

164.025 1. The trustee of a nontestamentary trust may after the death of the settlor of the trust cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily ascertainable creditors.

2. The notice must be in substantially the following form:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the trust., the settlor of that trust died on A creditor having a claim against the trust estate must file his claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated

.....

Trustee

.....

Address

3. A person having a claim, due or to become due, against a settlor or the trust must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. Any claim against the trust estate not filed within that time is forever barred. After the expiration of the time, the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor who has failed to file a claim with the trustee.

4. If the trustee knows or has reason to believe that the settlor received public assistance during his lifetime, the trustee shall, whether or not he gives notice to other creditors, give notice within 30 days after the death to the welfare division of the department of human resources in the manner provided in NRS 155.010. If notice to the welfare division is required by this subsection, but is not given, the trust estate and any assets transferred to a beneficiary remain subject to the right of the welfare division to recover public assistance received.

5. If a claim is rejected by the trustee, in whole or in part, the trustee must, within 10 days of the rejection, notify the claimant of the rejection by written notice forwarded by registered or certified mail to the mailing address of the claimant. The claimant must bring suit in the proper court against the trustee within 60 days after the notice is given, whether the claim is due or not, or the claim is barred forever and the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor whose claim is barred forever.

Sec. 47. Chapter 166 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, unless the context otherwise requires, when the term "writing" or "written" is used in reference to a will, trust or

instrument, the term includes an electronic will as defined in section 5 of this act and an electronic trust as defined in section 38 of this act.

Sec. 48. NRS 145.050 is hereby repealed.