SB 404 EXACT LANGUAGE CHANGES AND EXPLANATIONS

Section 1. NRS 132.115
"Distributee" means a person who has received , or has the right to receive, property of a decedent from the decedent's personal representative other than as a creditor or purchaser.

Reason for Proposed Amendment: This term is often used for interested parties who anticipate, but have not yet actually, received the distribution to which they are entitled. The definition should reflect such usage.

Section 1.1
NRS 136.150 is hereby amended to read as follows:
136.150 1. If no person appears to contest the probate of a will, the court may admit it to probate on the testimony of only one of the subscribing witnesses, if that testimony shows that the will was executed in all particulars as required by law, and that the testator was of sound mind and had attained the age of 18 years at the time of its execution.
2. [~~An ex parte~~] A filed affidavit of the witness, showing that the will was executed in all particulars as required by law, and that the testator was of sound mind and had attained the age of 18 years at the time of its execution, must be received in evidence and has the same force and effect as if the witness were present and testified orally

Reason for Proposed Amendment: Evidence offered to prove a will should be part of the record. Evidence referenced in NRS 136.130 and NRS 136.240 both require filing. The evidence under NRS 136.150 should require filing as well.

Section 1.2
139.040 1. [~~Administration~~] Except as otherwise provided in subsection 5, 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 grandchildren.
(d) Other issue.

(e) A parent.
[~~(d) The brother or the sister.~~
~~(e) The grandchildren~~.]
(f) A sibling.
(g) Any other of the kindred entitled to share in the distribution of the estate.
(h) The public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable.
(i) Creditors who have become such during the lifetime of the decedent.
(j) Any of the kindred not above enumerated, within the fourth degree of consanguinity.
(k) Any person [~~or persons~~] who is legally qualified upon a finding of good cause. Such a finding must be based on evidence, including, without limitation:
(1) An affidavit of due diligence to find any living heir, including, without limitation:
(I) A report from an heir finder, as defined in NRS 139.135; and
(II) Proof of service via certified mail to all potential heirs identified pursuant to sub-subparagraph (I); and
(2) A statement of the qualifications of the person seeking appointment.
2. If any heir who is otherwise entitled to appointment is a minor, the court may appoint the custodial parent or legal guardian of the minor as administrator. The custodial parent or legal guardian has the same priority for appointment as the minor.
3. If any heir who is otherwise entitled to appointment is an incapacitated person, the court may appoint the guardian or equivalent fiduciary as administrator. The guardian or equivalent fiduciary has the same priority for appointment as the incapacitated person.
4. A person in each of the foregoing classes is entitled: (a) To appointment, if the person is: (1) A resident of the State of Nevada or the person:
(I) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or (II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or
(2) A banking corporation which is authorized to do business in this State or

which: (I) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or (II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment. (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.

5. If there is no surviving spouse, the court may, in its discretion:
(a) Disregard the order of priority set forth in subsection 1 to favor the appointment of an heir or the nominee of an heir, or group of heirs, who have an equal or larger interest in the estate than the heir entitled to priority for appointment; or (b) Appoint an independent personal representative.

Reason for Proposed Amendment: The Decedent's grandchildren and other issue should have a higher priority than parent or sibling to serve as administrator, which matches the intestate succession law regarding priority to inherit under NRS 134. There is a gap in the law regarding who may serve and/or nominate the personal representative when an heir is a minor child or incapacitated person. The personal representative should be someone friendly to the minor children or incapacitated person (who stands to inherit from the estate) and have their best interest in mind, instead of an extended family member (who may not inherit from the estate) who may harbor resentment for one reason or another.

Sec 1.3

139.050 Administration may be granted upon petition to one or more qualified persons, although not otherwise entitled to serve, at the written request of the person entitled, filed in the court. The qualified person making the written request must provide his or her current address [~~and telephone number~~] in the written request [.] and be given notice of the hearing. Failure to provide such information voids the written request.

Reason for Proposed Amendment: The telephone number of the nominator does not need to be public record. This provision was recently added because Rob Telles and Thomas Moore were engaged in a personal battle. Nominations should of course be legit, but providing a telephone number so the public administrator or some other party can call and confirm/discuss with the nominator is an unreasonable safety measure (and one that has rarely, if ever, actually been implemented). Instead, the nominator should be provided (by mail at the address provided in the nomination) with a copy of the notice of hearing along with the petition where the nomination is being used. Nominators are often entitled to notice as an heir, but sometimes nominations come from an extended family member who would not otherwise be an heir and entitled to notice. If there is any fraud or other misdeeds associated with the nomination, the person making the alleged nomination can object.

Sec 1.4

139.070 When there are several persons equally entitled to [~~the administration,~~] appointment as personal representative, the court may, in its discretion, [~~grant letters to~~] appoint one or more of them [.] to serve as personal representative or appoint an independent representative.

Reason for Proposed Amendment. For consistent language in the statutes, we want to refer to appointment rather than administration. The court does not grant letters, the Clerk does, and to be clear that the Court has discretion to appoint an independent PR.

Sec. 1.6

139.110 An interested person may contest the petition by filing a written opposition on the ground that the petitioner is not qualified or may assert the contestant's own right to [~~the administration~~] appointment and request that letters be issued to the contestant [.] or nominee. In the latter case, the contestant or nominee must file a petition and give the notice required for the original petition, and the court must hear the [~~two~~] competing petitions together.

Reason for Proposed Amendment. To coincide with terminology in the rest of the chapter and to be clear that the prevailing party or his or her nominee may be appointed by the court. We also recognize that there may be more than 2 competing petitions.

Sec 2, subsection 2

143.340 1. To obtain authority to administer the estate pursuant to NRS 143.300 to 143.815, inclusive, the personal representative must petition the court for that authority in a petition
for appointment of the personal representative or in a separate petition filed in the estate proceedings.

2. Only a personal representative who is named in the will or a person described in paragraphs (a) to (g) inclusive, of subsection
1 of NRS 139.040 may be granted authority to administer the
estate pursuant to NRS 143.300 to 143.815, inclusive. All other persons who are legally qualified to serve as the
personal representative may not be granted authority to administer the estate pursuant to NRS 143.300 to 143.815, inclusive.

Sec 3- Court revocation of authority of PR
NRS 143.360 Sub 4

4. In determining whether to revoke the authority of the personal representative as described in subsection 1, the court
shall give preference to any interested person based on the order of priority set forth in subsection 1 of NRS 139.040.

Sec 4-

144.010 1. Except as otherwise provided in this section, every personal representative shall prepare and file with the clerk a true inventory and appraisement or record of value of all the assets of the decedent that have come to the possession or knowledge of the personal representative, within 120 days after the issuance of letters , [~~of administration,~~] unless the court extends the time for good cause shown. The requirement of preparing and filing an inventory or an appraisement or a verified record of value, or both, may be waived by the unanimous written consent of all interested persons.

2. Notwithstanding the provisions of this section, an interested person may provide a written request to the personal representative at any time 60 days or more after the issuance of letters [~~of administration~~] which seeks a list of the assets of the estate known to the personal representative. The personal representative shall provide such information to the requesting interested party within 10 days after receipt of the written request.

Reason for Proposed Amendment. An inventory is due for all personal representatives, not just those who have been issued letters of administration. This statute applies to those who have received letters of administration, letters testamentary, and letters of administration with will annexed. The term “letters” is defined in NRS 132.220 to cover the various letters.

Sec 5 NRS 145.030 refers to the Notice required by NRS 155.010; Corrected to reference NRS 155.020
145.030 Notice of a petition for [~~the~~] probate [~~of a will~~] and the issuance of letters must be given as provided in NRS [~~155.010~~.] 155.020.

Reason for Proposed Amendment. Not all petitions for probate include a request to probate a will. Notice of a petition is applicable for probates that include a will (testate estates) as well as those that do not include a will (intestate estates). Accordingly, the language should be corrected so the notice is not limited to just petitions seeking to probate a will.

NRS 136.100 requires notice of a petition for general administration to be provided in accordance with NRS 155.020. However, NRS 145.030 requires notice of a petition for summary administration be provided in accordance with NRS 155.010. These statutes should align. NRS 155.020 references NRS 155.010. Accordingly, when NRS 136.100 and NRS 145.030 reference NRS 155.020, it includes applicable provisions of NRS 155.010.

Corresponding change made to NRS 155.020.

Sec 6. NRS 145.040 Raised level of full admin from $300,000 to new level of $500,000
If it is made to appear to the court that the gross value of the estate, after deducting any encumbrances, does not exceed [~~$300,000~~,] $500,000, the court may, if deemed advisable considering the nature, character and obligations of the estate, enter an order for a summary administration of the estate.

Sec. 7. NRS 145.110 is hereby amended to read as follows:
145.110 If at any time after the entry of an order for the summary administration of an estate it appears that the gross value of the estate, after deducting any encumbrances, exceeds [~~$300,000~~] $500,000 as of the death of the decedent, the

personal representative shall petition the court for an order revoking summary administration. The court may, if deemed advisable considering the nature, character and obligations of the estate, provide in its order revoking summary administration that regular administration of the estate may proceed unabated upon providing such portions of the regular proceedings and notices as were dispensed with by the order for summary administration

1. **Reason for Proposed Amendment:** This amendment would account for the rise in inflation, particularly with respect to housing prices in Nevada, which have risen at a rate that has greatly outpaced the rate of inflation generally. Accordingly, this amendment would expand the availability of Summary Administration which would promote more efficient administration of a larger number of estates.

2. **Public policy considerations that the legislature should take into account:** The Legislature has provided a process by which estates under a certain dollar amount may be settled more quickly and efficiently than larger estates. Increases in prices generally, and particularly in housing (which is commonly the largest asset in a probate estate), have led to a decrease in estates eligible for Summary Administration and the more streamlined, efficient process it affords. By raising the dollar limit for estates eligible for summary administration, more parties would be able to take advantage of the benefits it provides.

Please note that Sec 11 of this bill says that 155.020 now applies to all probates, i.e. publication of Notice of your Petition/Hearing will now be required for summary administration as well.

Sec 8. NRS 146.020 raised the level for Petitions to Set Aside from $100,000 to new level of $150,000
Sec 9. NRS 146.070 same raise to $150,000
NRS 146.020 is hereby amended to read as follows:
146.020 1. The court, on its own motion or upon petition by an interested person, may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children, set apart for the use of the surviving spouse, minor child or minor children of the decedent all of the personal property which is

exempt by law from execution, and shall, in accordance with NRS 146.050, set apart the homestead, as designated by the general homestead law then in force, whether the homestead has theretofore previously been selected as required by law or not, and the property thus set apart is not subject to administration.
2. If, after setting apart the property pursuant to subsection 1, the remaining assets of the estate do not exceed [~~$100,000~~] $150,000 and may be set aside without administration pursuant to NRS 146.070, the court shall set aside the remaining assets of the estate without administration pursuant to the procedure set forth in NRS 146.070. The court may consider at the same time a petition made pursuant to subsection 1 and a petition to set aside the remaining assets of the estate without administration pursuant to NRS 146.070. 3. If, after setting apart the property pursuant to subsection 1, the remaining assets of the estate exceed [~~$100,000~~] $150,000 and may not be set aside without administration pursuant to NRS 146.070, the court shall administer the remaining assets of the estate pursuant to this title as if the remaining assets of the estate are the only assets of the estate. If the petition to set apart property pursuant to subsection 1 is made in the initial petition, the court shall consider only the value of the remaining assets of the estate not set apart pursuant to subsection 1 for the purpose of ordering summary administration pursuant to chapter 145 of NRS. Sec. 9. NRS

146.070 is hereby amended to read as follows: 146.070 1. All or part of the estate of a decedent may be set aside without administration by the order of the court as follows: (a) If the value of a decedent's estate does not exceed [~~$100,000~~,] $150,000, the estate may be set aside without administration by the order of the court; or (b) If a decedent's will directs that all or part of the decedent's estate is to be distributed to the trustee of a …."
(same change is made in the rest of this statute)

146.080 same for small estate affidavits.
…7. As used in this section, "applicable amount" means: (a) If the claimant is the surviving spouse of the decedent, [~~$100,000.~~] $150,000. (b) For any other claimant, $25,000.

1. **Reason for Proposed Amendment:** The proposed amendment would increase the threshold for an estate to be set aside without administration, becoming consistent with the proposed changes to NRS 146.070

2. **Public policy considerations that the legislature should take into account:** Inflation and general price increases require an increase in the threshold for an estate that may be set aside without administration. Based on the U.S. Bureau of Labor Statistics, $100,000 in 2007 dollars (when the current threshold was last increased) is now valued at more than $149,486.92. We propose an increase to $150,000 to take into account inflation and value increases.

Sec 11 NRS 155.020 applies whether will or intestate
. The notice of the hearing upon the petition to administer the estate must be in substantially the following form:
NOTICE OF THE HEARING UPON THE PETITION TO ADMINISTER THE ESTATE
Notice is hereby given that .... has filed in this court a petition for [~~the~~] probate [~~of a will~~] and for letters testamentary, or for letters of administration, of the estate of ...., deceased, and a hearing has been set for the .... day of the month of................, of the year......, at .... (a.m. or p.m.) at the courthouse of the above-entitled court. All persons interested in the estate are notified to appear and show cause why the petition should not be granted. Dated ....
And a corresponding change made to NRS 145.030

Reason for Proposed Amendment: Not all petitions for probate include a request to probate a will. Notice of a petition is applicable for probates that include a will (testate estates) as well as those that do not include a will (intestate estates). Accordingly, the language should be corrected so the notice is not limited to just petitions seeking to probate a will.

Sec 12 Statute of Limitations
NRS 11.190 (2 year statute) added section g.
g) Except as otherwise provided in NRS 165.1214, absent fraud or intentional misrepresentation, an action to recover for breach of fiduciary duty against a fiduciary, as defined in NRS 163.554, who resides in this State or a trust company as described in chapter 669 or 669A of NRS that has its principal place of business in this State. The cause of action shall be deemed to accrue when the aggrieved party discovers or should have

discovered through the use of reasonable diligence the material facts that constitute the cause of action, whichever occurs earlier.

Reason for Proposed Amendment: Under Nevada Supreme Court caselaw, "[a] breach of fiduciary duty is a fraud giving rise to the application of the three-year statute of limitations." *Shupe v. Ham*, 98 Nev. 61, 64, 639 P.2d 540, 542 (1982) (citing NRS 11.190(3)(d)). That ruling is overbroad insofar as fraud requires fraudulent intent while some breaches of fiduciary duty may require lesser intent or no intent at all.

This proposed amendment of NRS 11.190 addresses breaches of fiduciary duty not involving fraud or intentional misrepresentation by assigning a two-year limitations period. It will also bring Nevada into closer competition with South Dakota, on whose equivalent statute of limitations this amendment is modeled (n.b., the proposed amendment replaces South Dakota's "breach of trust" with "breach of fiduciary duty," averting an unintended consequence the Committee foresees of breach-of-trust claims being styled as breach-of-fiduciary claims, thereby avoiding the two-year limitation period this amendment would create only for breach-of-trust claims and instead falling under *Shupe*'s three-year limitation period for breach-of-fiduciary-duty claims.)

Sec 13-16 deleted by amendment

Sec 17-exemption from creditors when a POA is exercised.

162B.510 1. Appointive property subject to a general power of appointment created by a person other than the powerholder is not subject to a claim of any creditor, unless the power of appointment was held by a decedent who actually exercised the power in favor of the decedent or the decedent's estate pursuant to subparagraph (1) of paragraph (a) of subsection 12 of NRS 111.779. 2. Subject to subsection 3 of NRS 162B.530, a power of appointment created by a person other than the powerholder which is subject to an ascertainable standard relating to an individual's health, education, support or maintenance within the meaning of 26 U.S.C. § 2041(b)(1)(A) or 26 U.S.C. § 2514(c)(1), as those provisions existed on October 1, 2017, is treated for purposes of NRS 162B.500 to 162B.530, inclusive, as a nongeneral power

Reason for Proposed Amendment. This amendment would clarify language relating to exemption of property from creditor claims that is subject to a general power of appointment.

Sec 18- no need to create separate subtrusts just to distribute it.

Sec. 18. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless specifically prohibited by the terms of a will or trust instrument and except as provided in subsection 2, if an instrument creating a separate trust requires the assets of the separate trust to be distributed to the beneficiary or beneficiaries of the trust immediately after the establishment of the separate trust as a result of the circumstances existing at the time the separate trust is to be established, the executor, trustee or any other party having possession of the property with which the separate trust will be funded may exercise discretion to make a distribution directly to the beneficiary or the beneficiaries of the separate trust.
2. An executor, trustee or any other party described in subsection 1 may exercise discretion rather than distributing the trust assets to the trustee of the separate trust if the transferring executor, trustee or any other party described in subsection 1 and the trustee of the separate trust are the same person.
3. The receipts of distribution provided to any beneficiary or beneficiaries in the manner described in this section shall be deemed to protect the executor, trustee or other person having possession of the property to the same extent that a receipt of distribution would have protected the executor, trustee or other person had the property been distributed by the trustee from the separate trust.

Reason for Proposed Amendment: This statute would allow for a trustee to make an outright distribution to a beneficiary who would be immediately entitled to an outright distribution of the trust assets from a trust without the trustee being required to create a new trust share even in circumstances when the trust instrument provides for the establishment of a new trust share to then immediately make an outright distribution to the beneficiary. The establishment of a trust share for the beneficiary in circumstances where the trust instrument requires a trust share to be immediately distributed outright to the beneficiary when the trust share is created requires the trustee to take unnecessary steps in the trust administration process including the obtaining of an EIN number for the trust share and the opening of an account in the name of the new trust share.

Sec 19- new POA Healthcare- deleted to avoid potential conflict with sponsors of other bills.

Sec 20- if beneficiary is entitled to assets, then Trustee can reimburse the beneficiary for tax liability
Sec. 20. NRS 163.557 is hereby amended to read as follows:
163.557 1. A governing trust instrument may authorize the…
2. [~~A trustee or directing trust adviser~~] Except as expressly prohibited or otherwise provided under the trust instrument, if all or any portion of the trust is treated as being owned by a person under section 671 of the Internal Revenue Code or any similar federal, state or other tax law, in addition to any such discretion conferred under the terms of a trust instrument, the trustee may, in the trustee's sole discretion, reimburse the person being treated as the owner for any amount of the person's federal, state or other income tax liability that is attributable to the inclusion of the trust's income, capital gains, deductions or credits in the calculation of the person's taxable income. In the trustee's sole discretion, the trustee may pay such tax reimbursement amount, determined without regard to any other distribution or payment made from trust assets, to the person directly or to the appropriate taxing authority. A life insurance policy held in the trust, the cash value of any such policy or the proceeds of any loan secured by an interest in the policy may not be used for such reimbursement or payment if the person is an insured.
3. Except as otherwise provided under the trust instrument, a trustee who exercises discretion to make, consent to or direct the decision to reimburse the settlor under subsection 1 or 2 is not liable to any person in exercising such discretion to reimburse or not reimburse a settlor for tax payable by the settlor on trust income or principal pursuant to subsection 1.
4. A trustee may not exercise or participate in the exercise of the powers granted by this section with respect to any trust if the trustee is:

(a) Treated as the owner of all or part of the trust under section 671 of the Internal Revenue Code or any similar federal, state or other tax law;

(b) A beneficiary of the trust; or (c) A related or subordinate party, as defined in section 672(c) of the Internal Revenue Code, with respect to:

(1) A person treated as the owner of all or part of the trust under section 671 of the Internal Revenue Code or any similar federal, state or other tax law; or

(2) A beneficiary of the trust.

5. If the trust instrument requires the trustee to act at the direction or with the consent of a trust adviser, trust protector or any other person, or that the reimbursement decisions permitted by this section be made directly by a trust adviser, trust protector or any other person, the powers granted by subsection 1 and the provisions of subsection 2 applicable to the trustee are instead also granted or apply, subject to the trust instrument, to the trust adviser, trust protector or other person subject to the limitations set forth in subsection 3, which must be applied as if the trust adviser, trust protector or other person were a trustee.

6. The power of a trustee , trust adviser, trust protector or any other person to make a payment to or for the benefit of a settlor or other person in accordance with subsection 1 or 2 or the decision of a trustee, trust adviser, trust protector or any other person to exercise such power in favor of the settlor must not cause the settlor or other person to be treated as a beneficiary for purposes of the laws of this State [.] solely by reason of the application of this section. As used in this subsection, "beneficiary" has the meaning ascribed to it in NRS 163.4147.

7. This section applies to all trusts described in subsection 2 that are governed by the laws of this State or have a principal place of administration within this State whether created before, on or after October 1, 2025, unless:

(a) At least 60 days before the effective date of such election, the trustee provides written notice that the trustee intends to irrevocably elect out of the application of this section to:

(1) The person treated as the owner of all or a portion of the trust under section 671 of the Internal Revenue Code or any similar federal, state or other tax law; and

(2) All persons who have the ability to remove and replace the trustee under the terms of the trust instrument.

(b) Applying the discretion conferred under subsection 2 will prevent a contribution to the trust from qualifying for or reducing a federal tax benefit, including a federal tax exclusion or deduction, that was originally claimed or could have been claimed for the contribution, including:

(1) An exclusion under section 2503(b) or 2503(c) of the Internal Revenue Code;

(2) A marital deduction under section 2056, 2056A or 2523 of the Internal Revenue Code;

(3) A charitable deduction under section 170(a), 642(c), 2055(a) or 2522(a) of the Internal Revenue Code; or

(4) Direct skip treatment under section 2642(c) of the Internal Revenue Code.

Reason for Proposed Amendment: NRS 163.557 currently provides that a trust instrument may grant a trustee the power to reimburse the settlor for tax payments. This amendment instead provides a reimbursement power in the statute itself, making discretionary reimbursement a default power under any Nevada grantor trust that does not provide otherwise.

The power to reimburse the settlor of a grantor trust was the subject of a significant IRS memorandum issued on December 29, 2023 ("CCA 202352018"). CCA 202352018 explains that adding a reimbursement power to a trust instrument may constitute a taxable gift from beneficiaries who consent or omit to object to the addition of the reimbursement power. This is of course an undesirable outcome for beneficiaries. Adding a default reimbursement power to grantor trusts via statute, as this amendment would do, would not have the same effect under CCA 202352018.

A recently enacted Florida statute provides a model for Nevada's statute. Although its enactment preceded CCA 202352018 and was intended simply to provide the reimbursement power as a matter of convenience, it fortuitously allows Florida trusts also to avoid the gift-tax pitfall by obviating the need to add that power to any trust that does not expressly disallow reimbursement.

Sec 21- only need to provide copies of Trust documents that were in effect at death (not earlier versions)
NRS 164.021 requires the provision of notice to beneficiaries once a trust becomes irrevocable (ie. death); and need to provide the trust documents.

(c) The dispositive provisions of the trust instrument which pertain to the beneficiary, a complete copy of the trust instrument or notice that the heir or interested person is not a beneficiary under the trust . [;] As used in this paragraph, "trust instrument" means only those amendments, restatements and instruments the trustee has determined to be in effect at the time of the death of the settlor after the trustee has exercised due diligence.

Deleted--

5~~. [For the purposes of paragraph (c) of subsection 2, a copy of the trust instrument shall be considered complete if it includes all amendments and restatements to~~

~~the trust instrument the trustee has determined to be in effect at the time of the death of the settlor after the trustee has exercised due diligence~~.
Added—
6. A person may waive the right to notice contemplated by this section by delivering to the trustee a waiver signed by the person, which shall be deemed irrevocable. Upon delivery of such a waiver to the trustee, the person who waived the right to notice is precluded from bringing any action to contest the validity of the trust.

Reason for Proposed Amendment: This amendment would modify NRS 164.021 to clarify documentation that must be provided to beneficiaries to satisfy the notice requirement. This amendment further adds a provision that would allow a beneficiary to waive the beneficiary's right to receive the notice.

Sec 22- state jurisdiction over trusts
NRS 164.045 says Nevada law governs if the trust says so, or designated by someone with authority under the terms of the Trust, or the settlor is a resident, etc.; Nevada if a Spendthrift Trust under NRS 166.015 (166.170 is Self Settled Spendthrift Trust- 2 yr no claim)
Added:

4. The laws of this State govern the administration of a trust if: (a) The trust instrument so provides; or (b) Designated by a person who, under the terms of the trust instrument or applicable law, has the right to designate the laws that govern the administration of the trust, at the time the designation is made.
5. Notwithstanding a general choice of law provision in the governing instrument of a trust, such as a provision in the governing instrument to the effect that the laws of a jurisdiction other than this State govern the trust or the administration of the trust, the laws of this State govern the administration of the trust while the trust is administered in this State, as provided in subsection 7 or as otherwise provided, unless:

(a) The governing instrument expressly provides that the laws of another jurisdiction govern the administration of the trust and that the laws governing the administration of the trust must not change on account of a change in the place of administration of the trust; or

(b) Otherwise provided by a court order.

6. Notwithstanding the provisions of subsection 5, if a fiduciary takes or fails to take action, based on a good faith belief that the laws of a foreign jurisdiction govern the

administration of a trust while the trust is administered in this State, the fiduciary's liability under the governing instrument for the action or inaction must be determined in accordance with the laws of the foreign jurisdiction.

7. For purposes of this section and without limiting any other way in which a trust may be considered to be administered in this State, a trust is considered to be administered in this State if all or part of the administration occurs in this State and if:

(a) The sole trustee is an individual residing in this State or a corporation or other entity having an office in this State for the conduct of business;

(b) The trust has more than one trustee, at least one of which is a corporation or other entity and that corporation or other entity has an office in this State for the conduct of trust business;

(c) The trust has more than one trustee, all of whom are persons and more than half of the trustees reside in this State;

(d) A trust created pursuant to chapter 166 of NRS meets the requirements set forth in NRS 166.015; or

(e) During any such period when the trust is revocable by the settlor who is a resident of this State and there is at least one trustee that is:

(1) A resident of this State; or

(2) A corporation or other entity having an office in this State for the conduct of trust business.

Reason for Proposed Amendment: NRS 164.045 provides when Nevada law governs the construction and validity of a trust. However, NRS 164.045 does not provide when Nevada law governs the administration of a trust. The proposed amendment provides specific criteria as to when Nevada law will govern the administration of a trust. The proposed amendment would make the circumstances under which Nevada law would apply to the administration of a trust consistent with Delaware law. The proposed amendment also provides specific criteria as to when a trust is considered administered in Nevada absent a direct or indirect provision in the trust document.

Sec 23-

NRS 165.1214 says accountings must be provided within 90 days of the end of the account period. And account is deemed approved after 90 days, or if approved by the beneficiaries.

New provision added to allow a Trust advisor to approve accounting if the beneficiaries are given notice and the trust authorizes the TA or trust protector to approve it. Or by all beneficiaries via a non judicial settlement agreement.

(c) By a trust adviser or trust protector if:

(1) Notice or information to the beneficiaries has been waived or modified in accordance with NRS 163.004; or

(2) It is authorized under the terms of the trust instrument.

(d) By all parties to a nonjudicial settlement agreement under paragraph (f) of subsection 3 of NRS 164.940 and regardless of whether the court approves such a nonjudicial settlement agreement under subsection 4 of NRS 164.942.

Notwithstanding the foregoing, if an account is submitted to the court for approval under a petition pursuant to chapter 164 of NRS, the account must be deemed final and approved upon by order of the court, subject only to the right of an interested person to appeal. …

5. The trustee, absent fraud or intentional misrepresentation, is released and discharged from any and all liability to any and all beneficiaries of the trust for whom an account is deemed approved and final under subsection 4 as to all matters set forth in such an account.

Reason for Proposed Amendment: The proposed amendment clarifies the effect of approved-and-final status by adding an express exculpation provision that practitioners have read into NRS 165.1214. Judging by other states' equivalent statutes that expressly address exculpation, Nevada's omission of an express exculpation provision may have been unintentional. No court has yet addressed this apparent omission or the practice of nonetheless reading it into NRS 165.1214, so clarifying it before a court has done so may spare Nevada's trust-and-estate bar some regrettable publicity. It also brings Nevada into greater competition with other states, including South Dakota, on whose equivalent statute the proposed amendment is modeled.

The proposed amendment also provides by way of cross-reference to related statutes in Title 13 that an account may be approved by virtual representation under NRS 163.004 and nonjudicial settlement agreement under NRS 164.940. These changes simply clarify the apparent but uncertain interplay between those statutes.

Note that Sec 32 deleted NRS 139.060 (this section is in 139- Appointment of Administrators)

~~NRS 139.060 Relatives of whole blood preferred to those of half blood. When there shall be several persons claiming and equally entitled to the administration, relatives of the whole blood are preferred to those of the half blood~~.

Reason for Proposed Amendment. We are proposing to have the administration priority track with the intestate statutes. Currently they do not track. We believe whoever is inheriting should have the first chance to serve. The intestate statutes treat half-bloods and full-blooded relatives equally, so there is no reason to prefer full blooded relatives to ½ blood relatives. So this statute should be repealed. This statute was last amended more than 50 years ago.

--End of SB 404--