

**COMPARISON
OF THE
DOMESTIC ASSET PROTECTION TRUST STATUTES**

Updated Through September 2010

Edited by David G. Shaftel

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This 2010 version of the chart includes Hawaii's new statute and updates the 2008 version with changes to, or further explanation of, the laws of Alaska, Colorado, Delaware, Missouri, Nevada, Oklahoma, and Tennessee, Utah, and Wyoming.

The following attorneys generously reviewed and edited their state's subjects for accuracy: **Marc A. Chorney** (Colorado); **Richard G. Bacon** (Delaware); **Randall Roth** (Hawaii), **Larry P. Katzenstein** (Missouri); **Layne Rushforth** (Nevada); **William Zorn** (New Hampshire); **Jon Trudgeon** (Oklahoma); **Mary Louise Kennedy** (Rhode Island); **John H. Raforth** (South Dakota); **Bryan Howard** (Tennessee); **Thomas Christensen, Jr.** (Utah); and **Robert H. Leonard** (Wyoming).

INTRODUCTION

A domestic asset protection trust (hereinafter referred to as a “DAPT”) is generally an irrevocable trust with an independent trustee who has absolute discretion to make distributions to a class of beneficiaries which includes the settlor. The primary goals of DAPTs are asset protection and, if so designed, transfer tax minimization.

Prior to 1997, several states had statutory provisions which appear to support the formation of DAPTs. In 1997, Alaska was the first state to enact a usable DAPT statute. In the thirteen years since, other states have followed suit. There are now twelve (arguably, thirteen, if Colorado is included) states that allow for the formation of DAPTs.

Legislatures have taken different approaches. The original statutes are terse and only indicate a public policy (Missouri and Colorado). Some of the new statutes amend existing statutes, and others enact new “Acts”. Interest groups within the various states have influenced the extent of the asset protection provided by the statutes.

If implemented correctly, the DAPT approach may be used successfully by residents of states with DAPT statutes. An interesting issue remains whether nonresidents of DAPT states may form a DAPT under one of the DAPT state’s laws and obtain the desired asset protection and tax benefits. The analysis of this issue involves the conflict of laws. The most likely test is whether the nonresident’s domiciliary state has a “strong public policy” against DAPT asset protection. The fact that twelve states now have DAPT statutes moves this approach from the eccentric anomaly category to an accepted asset protection and transfer tax minimization planning technique. As more and more states enact DAPT statutes, the conclusion that a non-DAPT state has a “strong public policy” against a DAPT trust seems less likely.

Hawaii’s Permitted Transfers Act is the most recent addition to our chart. This Act became effective on July 1, 2010. Randall Roth is our newest state editor, and he described Hawaii’s Act as follows:

Official rationale: The Permitted Transfers in Trust Act offers “incentives to high net-worth individuals throughout the United States and throughout the world to transfer a portion of their liquid net worth into this State for asset and trust management.”¹ It is designed to “increase the assets under management by Hawaii’s private financial sector, increase state tax revenues, and position the State as world-class financial management jurisdiction.”²

Brief explanation: For many years Hawaii law allowed a settlor’s creditors to reach trust assets that were available for distribution to the settlor, even if the settlor could not compel a distribution. Although every

other state had a similar law at one time, in recent years 11 states enacted laws that make possible so-called Domestic Asset Protection Trusts (DAPTs). While details vary, DAPTs provide a form of asset protection for settlors that otherwise would be available only to non-settlor trust beneficiaries. As of July 1, 2010, a settlor of a DAPT in Hawaii can put beyond the reach of future creditors up to 25% of her net worth, even if she retains the right to (i) current income, (ii) up to 5% of trust principal annually, and/or (iii) whatever other amounts the trustee chooses to distribute to the settlor. The settlor can also retain the power to remove and replace trustees. If the other 75% of the settlor's net worth consists of tenancy by the entirety property, life insurance contracts, annuity products, and/or qualified retirement plans or accounts, that individual could simultaneously be fabulously wealthy and totally judgment proof. The new law also exempts DAPTs from the rule against perpetuities, which can save estate, gift, and generation-skipping taxes for countless future generations (and frustrate yet-to-be-born creditors of the settlor's yet-to-be-born descendants).

Supporters of the new law contend that Hawaii's remote location makes litigation extra-expensive and thereby serves to discourage creditors further, and some say that settlor will prefer Hawaii to Alaska, Delaware or South Dakota as a place to visit (the managers of) their money. On the other hand, Hawaii is the only DAPT state that limits asset protection to 25% of the settlor's net worth, and to a specific type of property (cash and marketable securities). Hawaii is also alone in imposing a one-time 1% transfer tax on the value of trust property.

¹ Sec. 1, Act 182, 2010 Session Laws.

² *Id.*

Two states which have not enacted full DAPT statutes have "placed their toe in the water." John Vryhof has informed us that Arizona Trust Code section 14-10505, effective January 1, 2009, protects the interest of the settlor in the following types of trusts that may be designed as self-settled trusts: special needs trusts, inter vivos QTIP trusts, and general power of appointment marital trusts. Similarly, attorney Charlie Nash points out that Florida statute section 736.0505, enacted during Florida's 2010 legislative session, protects the donor's interest in an inter vivos QTIP trust formed by the settlor. Enactment of protection for self-settled interests like these provide weight to the argument that those states do not have a "strong public policy" against DAPT asset protection, and therefore residents could form a DAPT under another state's law.

The DAPT chart below is designed to give the reader an easy and quick comparison of the various DAPT statutes. A chart, by its very nature, is an oversimplification. The reader is urged to carefully analyze the provisions of a statute before implementing a DAPT.

NO.	SUBJECT	ALASKA	NEVADA	SOUTH DAKOTA
		COLORADO	NEW HAMPSHIRE	TENNESSEE
		DELAWARE	OKLAHOMA	UTAH
		HAWAII	RHODE ISLAND	WYOMING
		MISSOURI		
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14.	Does the statute provide an exception (no asset protection) for alimony?	5	14	22
15.	Does statute provide an exception (no asset protection) for property division upon divorce?	6	15	22

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16.	Does statute provide an exception (no asset protection) for tort claims?	6	15	22
17.	Does statute provide other express exceptions (no asset protection)?	6	15	23
18.	Does statute prohibit any claim for forced heirship, legitime or elective share?	6	15	23
19.	Are there provisions for moving trust to state and making it subject to statute?	7	15	23
20.	Does statute provide that spendthrift clause is transfer restriction described in Section 541(c)(2) of the Bankruptcy Code?	7	16	24
21.	Does statute provide that trustee automatically ceases to act if court has jurisdiction and determines that law of trust does not apply?	7	16	24
22.	Does statute provide that express/implied understandings regarding distributions to settlor are invalid?	7	16	24
23.	Does statute provide protection for attorneys, trustees, and others involved in creation and administration of trust?	7	16	24
24.	Does statute authorize a beneficiary to use or occupy real property or intangible personal property owned by trust, if in accordance with trustee's discretion?	7	16	24
25.	Is a non-settlor beneficiary's interest protected from property division at divorce?	7	17	24
26.	Are due diligence procedures required by statute?	8	18	24
27.	Is the trustee given a lien against trust assets for costs and fees incurred to defend the trust?	8	18	25
28.	Is there statutory authority supporting a trust's non-contestability clause even if probable causes exists for contest?	8	18	25

QUESTIONS REFERENCE SHEET	ALASKA	NEVADA	SOUTH DAKOTA
	COLORADO	NEW HAMPSHIRE	TENNESSEE
	DELAWARE	OKLAHOMA	UTAH
	HAWAII	RHODE ISLAND	WYOMING
	MISSOURI		

NO.	SUBJECT	ALASKA COLORADO DELAWARE HAWAII MISSOURI Page No.	NEVADA NEW HAMPSHIRE OKLAHOMA RHODE ISLAND Page No.	SOUTH DAKOTA TENNESSEE UTAH WYOMING Page No.
29.	Is the trustee given "decanting" authority to modify the trust?	8	18	25
30.	What is allowable duration of trusts?	8	18	25
31.	Does state assert income tax against DAPTs formed by non-resident settlors?	8	18	25
32.	Have state limited partnership and LLC statutes been amended to provide maximum creditor protection?	8	18	25
33.	What is the procedure and time period for a trustee to provide an accounting and be discharged from liability?	9	18	25

SUBJECT	ALASKA	COLORADO*	DELAWARE	HAWAII	MISSOURI
	Citation: Alaska Stat. § 34.40.110	Citation: Colo. Rev. Stat. §§ 38-10-111	Citation: Del. Code Ann. tit. 12, §§ 3570-3576	Citation: H.R.S. 554G (Act 182; 2010 Regular Session)	Citation: Mo. Rev. Stat. §§ 456.5-505
	Effective Date: April 2, 1997	Effective Date: 1861	Effective Date: July 1, 1997	Effective Date: July 1, 2010	Effective Date: 1989
	URL: http://www.legis.state.ak.us	URL: http://www.state.co.us	URL: http://www.delcode.state.de.us	URL: http://www.capitol.hawaii.gov/hrscurrent	URL: http://www.moga.mo.gov
1. What requirements must trust meet to come within protection of statute?	Trust instrument must: (1) be irrevocable; (2) expressly state AK law governs validity, construction, and administration of trust (unless trust is being transferred to AK trustee from non-AK trustee); (3) contain spendthrift clause.	In trust, limited to future creditors.	Trust instrument must: (1) be irrevocable; (2) expressly state that DE law governs validity, construction, and administration of trust (unless trust is being transferred to DE trustee from non-DE trustee); (3) contain spendthrift clause.	Trust instrument must: (1) be irrevocable; (2) expressly state HI law governs validity, construction and administration of trust; (3) transfer may not exceed 25% of transferor's net worth; (4) one time 1% transfer tax must be paid on fair market value of transferred property; (5) asset protection limited to cash, marketable securities, life insurance contracts and non-private annuities.	Trust instrument must: (1) be irrevocable; (2) contain a spendthrift clause; (3) have more than the settlor as a beneficiary; (4) settlor's interest must be discretionary.
2. May a revocable trust be used for asset protection?	No	No	No	No	No
3. Has the state legislature consistently supported DAPTs and related estate planning by continued amendments?	Yes, amendments enacted in: 2010, 2008, 2006, 2004, 2003, 2001, 2000, and 1998.	No amendments	Yes, amendments enacted in: 2010, 2009, 2008, 2007, 2006, 2005, 2003, 2002, 2001, 2000, and 1998.	No amendments. Statute first enacted in 2010.	Amendments enacted in 2004.

ALASKA	COLORADO	DELAWARE	HAWAII	MISSOURI	Page 1
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SUBJECT	ALASKA	COLORADO*	DELAWARE	HAWAII	MISSOURI
<p>4. What contacts with state are suggested or required to establish situs?</p>	<p>Suggested: (1) some or all of trust assets deposited in state; (2) AK trustee whose powers include (a) maintaining records (can be non-exclusive), (b) preparing or arranging for the preparation of income tax returns (can be non-exclusive); (3) part or all of the administration occurs in state, including maintenance of records.</p>	<p>Not addressed by statute.</p>	<p>Required: (1) some or all of trust assets deposited in state; (2) DE trustee whose powers include (a) maintaining records (can be nonexclusive), (b) preparing or arranging for the preparation of income tax returns; (3) or, otherwise materially participates in the administration of the trust.</p>	<p>Trustee must be HI resident or bank or trust company with HI as its principal place of business.</p>	<p>Principal place of business or residence of trustee in designated jurisdiction, or presence of all or part of the administration in designated jurisdiction; statute includes procedure for transfer of principal place of business. RSMo § 456.1-108</p>
<p>5. What interests in principal and income may settlor retain?</p>	<p>Settlor may retain interests in: (1) CRT; (2) total-return trust; (3) GRAT or GRUT; (4) QPRT; (5) IRA; and (6) ability to be reimbursed for income taxes attributable to trust.</p>	<p>Not addressed by statute.</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to 5% interest in total return trust; (4) GRAT or GRUT; (5) QPRT; (6) qualified annuity interest; (7) ability to be reimbursed for income taxes attributable to trust; and (8) the ability to have debts, expenses and taxes of the settlor's estate paid from the trust.</p>	<p>Settlor may retain interest in: (1) current income; (2) up to 5% of principal annually; (3) ability to be reimbursed for income taxes attributable to trust.</p>	<p>Settlor may be one of a class of beneficiaries of a trust discretionary as to income or principal. RSMo § 456.5-505.3</p>

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6. What is trustee's distribution authority?	Discretion whether or not governed by a standard.	Not addressed by statute.	(1) Discretion; or (2) pursuant to a standard.	Statute refers to distributions in trustee's discretion but not further defined.	(1) Discretion; or (2) pursuant to a standard. RSMo § 456.8-814
7. What powers may settlor retain?	Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; and (3) right to appoint and remove trustees, trust protector, and advisors.	Not addressed by statute.	Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; and (3) power to replace trustee/ advisor.	Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; and (3) power to remove and replace trustee and advisor; and (4) power of appointment for debts, administration expenses, and estate/inheritance taxes.	None
8. Who must serve as trustee to come within protection of statute?	Alaska trustee not required, but suggested to establish situs. Resident individual or trust company or bank that possesses trust powers and has principal place of business in Alaska.	Not addressed by statute.	Resident individual or corporation whose activities are subject to supervision by Delaware Bank Commissioner, FDIC, Comptroller of Currency, or Office of Thrift Supervision.	Individual HI resident, other than the transferor, or a bank or trust company that has HI as its principal place of business.	Not addressed by statute.
9. May non-qualified trustees serve?	Yes	Not addressed by statute.	Yes, as a co-trustee.	Statute addresses the powers and duties of the "permitted" trustee. By implication, non-permitted trustees may not serve.	Not addressed by statute.
	ALASKA	COLORADO	DELAWARE	HAWAII	MISSOURI

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<p>10. May trust have distribution advisor, investment advisor, or trust protector?</p>	<p>Yes. Trust may have trust protector (who must be disinterested third party) and trustee advisor. Settlor may be advisor if does not have trustee power over discretionary distributions.</p>	<p>Not addressed by statute.</p>	<p>Yes. Trust may have one or more advisors (other than trustor) who may remove and appoint qualified trustees or trust advisors or who have authority to direct, consent to, or disapprove distributions from trust. Trust may have investment advisor, including trustor. The term “advisor” includes a protector.</p>	<p>Yes. Settlor may appoint one or more trust advisors or protectors, including advisors with power to (i) remove and replace trustees, advisors, or protectors, (ii) direct, consent to, or disapprove of distributions from the trust, and (iii) serve as investment advisor.</p>	<p>Not addressed by statute.</p>
<p>11. Are fraudulent transfers excepted from coverage?</p>	<p>Yes. Alaska has not adopted Uniform Fraudulent Transfer Act. Alaska statute sets aside transfers made with intent to defraud.</p>	<p>Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.</p>	<p>Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with actual intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent. However, future creditors may set aside transfer only if transfer made with intent to defraud.</p>	<p>Yes. HI has adopted the Uniform Fraudulent Transfer Act. DAPT statute expressly provides that creditors can set aside only transfers made with actual intent to hinder, delay or defraud.</p>	<p>Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent. RSMo § 456.5-505.</p>

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12. Fraudulent transfer action: burden of proof and statute of limitations.	Clear and convincing evidence. <u>Existing creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered, but future creditor must establish claim within four years after transfer. <u>Future creditors:</u> Four years after transfer.	Clear and convincing evidence. <u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.	Clear and convincing evidence. <u>Existing creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud. <u>Future creditors:</u> Four years after transfer.	Claims must arise before the transfer is made and be brought within 2 years. Creditor has burden to show actual fraudulent intent by preponderance of evidence (or clear and convincing evidence in limited circumstances).	Clear and convincing evidence. <u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.
13. Does statute provide an exception (no asset protection) for a child support claim?	Yes, if settlor was 30 days or more in default of making payment at time of transfer of assets to trust.	No	Yes	Yes. Protection is not available regarding family court-supervised agreement or order for child support.	Yes RSMo § 456.5-503.2
14. Does the statute provide an exception (no asset protection) for alimony?	No	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust.	Yes. Protection is not available regarding family court-supervised agreement or order for support or alimony to the transferor's spouse or former spouse.	Yes RSMo § 456.5-503.2

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15. Does statute provide an exception (no asset protection) for property division upon divorce?	Yes, if assets were transferred to trust during or less than 30 days prior to marriage. Otherwise, assets are protected.	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust. Otherwise, assets are protected.	Yes. Protection is not available regarding family court-supervised agreement or order for a division or distribution of property to the transferor's spouse or former spouse.	No
16. Does statute provide an exception (no asset protection) for tort claims?	No	No	Yes, for claims that arise as a result of death, personal injury, or property damage occurring before or on the date of transfer.	Yes, for claims that arise as a result of death, personal injury or property damage occurring before or on the date of the permitted transfer.	No
17. Does statute provide other express exceptions (no asset protection)?	No	No	No	Yes, secured loans to the transferor based on express or implied representations that trust assets would be available as security in the event of default; also, the transferor's tax liabilities to the State of Hawaii.	Yes if another governing law supersedes.
18. Does statute prohibit any claim for forced heirship, legitime or elective share?	Yes, assets excluded from augmented estate if transfer made more than 30 days before marriage or with spouse's consent.	No	Yes	Yes	No

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SUBJECT	ALASKA	COLORADO*	DELAWARE	HAWAII	MISSOURI
19. Are there provisions for moving trust to state and making it subject to statute?	Yes	No	Yes	No	No
20. Does statute provide that spendthrift clause is transfer restriction described in Section 541(c)(2) of the Bankruptcy Code?	Yes	No	Yes	Yes	No
21. Does statute provide that trustee automatically ceases to act if court has jurisdiction and determines that law of trust does not apply?	No	No	Yes	Yes	No
22. Does statute provide that express/implied understandings regarding distributions to settlor are invalid?	Yes	No	Yes	No	No
23. Does statute provide protection for attorneys, trustees, and others involved in creation and administration of trust?	Yes, and also provides protection for funding limited partnerships and LLCs.	No	Yes	Yes, but not completely.	No
24. Does statute authorize a beneficiary to use or occupy real property or intangible personal property owned by trust, if in accordance with trustee's discretion?	Yes	No	No, except for QPRT residence.	No. Real property and tangible personal property do not qualify for protection under the statute.	No
25. Is a non-settlor beneficiary's interest protected from property division at divorce?	Yes, and may not be considered in property division.	Increases in value of separate property after marriage are marital property.	Yes, but may be considered in property division.	Yes, but may be considered in property settlement.	Yes, but may be considered in property division.

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SUBJECT	ALASKA	COLORADO*	DELAWARE	HAWAII	MISSOURI
26. Are due diligence procedures required by statute?	Yes; affidavit required.	No	No	Yes; certificate of solvency required.	No
27. Is the trustee given a lien against trust assets for costs and fees incurred to defend the trust?	Yes	No	Yes	Yes	Yes RSMo § 456.7-709.
28. Is there statutory authority supporting a trust's non-contestability clause even if probable cause exists for contest?	Yes	No	Yes	No	No
29. Is the trustee given "decanting" authority to modify the trust?	Yes AS 13.36.157	No	Yes	No, but settlor and trustee of trust that includes a non-conforming power of appointment may elect to modify the power to conform to the statute.	No
30. What is allowable duration of trusts?	Up to 1,000 years	Up to 1,000 years	Abolished for personal property (which includes LLC and LP interests). 110 years for real property.	No limitation. Rule against perpetuities does not apply to qualifying trusts.	Abolished; generally applicable only after August 28, 2001. RSMo § 456.025.1
31. Does state assert income tax against DAPTs formed by non-resident settlors?	No	Yes	No. However, does impose its income tax upon trusts that accumulate income for Delaware residents.	Trust is subject to HI income taxes generally but not on income and capital gains accumulated for the benefit of non-residents.	Yes, if from sources within Missouri. Probably no if from marketable securities.
32. Have state limited partnership and LLC statutes been amended to provide maximum creditor protection?	Yes; charging order is only remedy.	Yes, charging order is only remedy.	Yes, charging order is only remedy.	No	Yes, charging order is only remedy.

ALASKA	COLORADO	DELAWARE	HAWAII	MISSOURI	Page 8
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SUBJECT	ALASKA	COLORADO*	DELAWARE	HAWAII	MISSOURI
33. What is the procedure and time period for a trustee to provide an accounting and be discharged from liability?	(1) Trustee petition and court discharge; or (2) six months after trustee provides report that adequately discloses claims.	Six months after trustee provides report that adequately discloses claims, and shows termination of the trust relationship between the trustee and the beneficiary.	Trustee filing and court discharge. Discharge occurs two years after delivery of statement that discloses the facts giving rise to the claim. (Accountings do not have <i>res judicata</i> effect in Delaware except as to matters actually contested in the accounting proceeding.)	Trustee filing and court discharge.	One year after trustee provides report that adequately discloses claims. RSMo § 456.10-1005.

* It is unclear whether Colorado's statute qualifies as a DAPT statute. Compare *In Re Baum*, 22 F.3d 1014 (10th Cir. 1994), with *In the Matter of Cohen*, 8 P.3d 429 (Colo. 1999), and *In Re Gary Lee Bryan*, 415 B.R. 454 (Bankr. D. Colo. 2009). See also, Rosen and Rothschild, 810 2nd T.M., Asset Protection Planning, VII A.5.b. for a discussion of *Baum*. As to Subject 25, see Chorney, *Interests in Trusts as Property in Dissolution of Marriage: Identification and Valuation*, 40 Real Prop., Probate and Trust J. 1 (2005).

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
	Citation: Nev. Rev. Stat. §§ 166.010-166.170	Citation: N.H. Rev. Stat. Ann. § 564-D: 1 -18	Citation: Okla. Stat. tit. 31 § 11, et seq.	Citation: R.I. Gen Laws §§ 18-9.2-1 - 18-9.2-7
	Effective Date: Oct. 1, 1999	Effective Date: Jan. 2, 2009	Effective Date: June 9, 2004	Effective Date: July 1, 1999
	URL: http://www.leg.state.nv.us	URL: http://www.gencourt.state.nh.us	URL: http://www.lsb.state.ok.us Statute at: //www.oscn.net	URL: http://www.rilin.state.ri.us

1. What requirements must trust meet to come within protection of statute?	Trust instrument must: (1) be irrevocable; (2) all or part of corpus of trust must be located in Nevada, domicile of settlor must be in Nevada, or trust instrument must appoint Nevada trustee; and (3) distributions to settlor must be approved by someone other than the settlor.	Trust instrument must: (1) be irrevocable; (2) expressly state that NH law governs validity, construction, and administration of trust (unless trust is being transferred to NH trustee from non-NH trustee); (3) contain spendthrift clause.	Trust instrument may be revocable or irrevocable. Trust instrument must: (1) expressly state Oklahoma law governs; (2) have qualified beneficiaries (ancestors or descendants of grantor, spouse of the grantor, charities, or trusts for such beneficiaries); (3) recite that income subject to income tax laws of Oklahoma; (4) limited to \$1,000,000 of assets plus growth.	Trust instrument must: (1) be irrevocable; (2) expressly state RI law governs validity, construction, and administration of trust; (3) contain spendthrift clause.
2. May a revocable trust be used for asset protection?	No	No	Yes. Settlor may revoke or amend trust and take back assets. No court or other judicial body may compel such revocation or amendment.	No
3. Has the state legislature consistently supported DAPTs and related estate planning by continued amendments?	Yes. The Nevada Legislature approved amendments in 2007 and 2009.	No amendments. Statute first enacted in 2008.	Yes. Most sections of the Act were amended and superseded effective June 8, 2005.	Yes, amendment enacted in 2007.

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
<p>4. What contacts with state are suggested or required to establish situs?</p>	<p>Required: (1) all or part of assets are in state; (2) Nevada trustee whose powers include: (a) maintaining records, (b) preparing income tax returns; (3) all or part of administration in state.</p>	<p>Required: (1) some or all of trust assets deposited in state; (2) NH trustee whose powers include (a) maintaining records (can be nonexclusive), (b) preparing or arranging for the preparation of income tax returns; (3) or, otherwise materially participates in the administration of the trust.</p>	<p>Required: (1) Oklahoma trustee; (2) majority of value of assets comprised of Oklahoma assets.</p>	<p>Required: (1) some or all of trust assets deposited in state; (2) RI trustee whose powers include: (a) maintaining records (can be non-exclusive), (b) preparing or arranging for the preparation of income tax returns; (3) or, otherwise materially participates in the administration of the trust.</p>
<p>5. What interests in principal and income may settlor retain?</p>	<p>The settlor may retain any right except the power to make distributions to himself without the consent of another person. N.R.S. § 166.040(3).</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to five percent interest in total return trust; (4) QPRT; (5) GRAT or GRUT; (6) the ability to have debts, expenses and taxes of the settlor's estate paid from the trust; (7) ability to be reimbursed for income taxes attributable to trust.</p>	<p>Irrevocable trusts: Not addressed by the Act. Revocable trusts: See Item 7. If settlor revokes or partially revokes the trust, the exemptions provided do not extend to assets received by settlor. The value of the property received by the settlor will increase the amount of future additions the settlor may make to the trust.</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to five percent interest in total return trust; QPRT; ability to be reimbursed for income taxes attributable to trust.</p>
<p>6. What is trustee's distribution authority?</p>	<p>As provided in the trust agreement, which may include absolute discretion or discretion limited by an ascertainable standard, and it may be subject to approval or veto powers retained by the settlor or given to the trust protector or other advisor.</p>	<p>(1) Discretion; or (2) pursuant to an ascertainable standard.</p>	<p>Irrevocable trusts: Not addressed by statute. Revocable trusts: see Item 5, above.</p>	<p>Discretion, or pursuant to a standard.</p>

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
7. What powers may settlor retain?	Settlor may retain any power except the power to make distributions to himself without the consent of another person, including: (1) power to veto distributions; and (2) special testamentary power of appointment or other similar power.	Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; and (3) power to replace trustee/advisor with nonrelated/nonsubordinate party.	Irrevocable trusts: Not addressed by the Act. Revocable trusts: Settlor may revoke or amend, but otherwise powers not addressed by the Act. The Oklahoma Trust Act addresses trustee and co-trustee powers and liabilities. O.S. tit. 60 § 175.1, et seq.	Settlor may retain: (1) power to veto distributions; and (2) special testamentary power of appointment.
8. Who must serve as trustee to come within protection of statute?	Resident individual or trust company or bank that maintains office in Nevada.	Resident individual or a state or federally chartered bank or trust company having a place of business in New Hampshire.	At all times, the trustee or co-trustee shall be an Oklahoma based bank or credit union (that takes deposits, insured by FDIC or NCUA) or an Oklahoma based trust company (chartered under Oklahoma law or nationally chartered), and having a place of business in Oklahoma	Resident individual (other than the transferor) or corporation whose activities are subject to supervision by RI Dept. of Business Regulation, FDIC, Comptroller of Currency, or Office of Thrift Supervision.
9. May non-qualified trustees serve?	Yes	Yes	Yes	Yes
10. May trust have distribution advisor, investment advisor, or trust protector?	Yes	Yes. Trust may have one or more trust advisors who may remove and appoint qualified trustees or trust advisors or who have authority to direct, consent to, or disapprove distributions from trust. "Trust advisor" includes a trust protector or any other person who holds one or more trust powers.	Not addressed by the Act. See Oklahoma Trust Act (O.S. tit. 60 § 175.1, et seq.) and Oklahoma Prudent Investor Act (O.S. tit. 60 § 175.60, et seq, esp. § 175.69, which specifically permits investment advisors. Distribution advisors and trust protectors are permitted.	Yes. Trust may have one or more advisors (other than trustor) who may remove and appoint qualified trustees or trust advisors or who have authority to direct, consent to, or disapprove distributions from trust. Trust may have investment advisor, including trustor. The term "advisor" includes a protector.
	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND Page 13

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
11. Are fraudulent transfers excepted from coverage?	Yes. Uniform Fraudulent Transfer Act applies, and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies, and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies, and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies, and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.
12. Fraudulent transfer action: burden of proof and statute of limitations.	<p>Clear and convincing evidence.</p> <p><u>Future creditors:</u> Two years after transfer.</p> <p><u>Existing creditors:</u> Two years after transfer, or, if longer, six months after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud (rather than constructive fraud). A transfer is deemed discovered when reflected in a public record.</p>	<p><u>Case law:</u> Actual fraud must be proved by clear and convincing evidence; constructive fraud by a preponderance of the evidence.</p> <p><u>Existing creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p> <p><u>Future creditors:</u> Four years after transfer.</p>	<p>Clear and convincing evidence.</p> <p><u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p>	<p>Clear and convincing evidence.</p> <p><u>Existing creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p> <p><u>Future creditors:</u> Four years after transfer.</p>
13. Does statute provide an exception (no asset protection) for a child support claim?	No	Yes	Yes	Yes, if at the time of transfer a court order for child support existed.
14. Does the statute provide an exception (no asset protection) for alimony?	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust.	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust.

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
15. Does statute provide an exception (no asset protection) for property division upon divorce?	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust. Otherwise, assets are protected.	No	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust. Otherwise, assets are protected.
16. Does statute provide an exception (no asset protection) for tort claims?	No	Yes, for claims that arise as a result of death, personal injury, or property damage occurring before or on the date of transfer.	No	Yes, for claims that arise as a result of death, personal injury, or property damage occurring before or on the date of transfer.
17. Does statute provide other express exceptions (no asset protection)?	No	No	Yes. "Except for any additional property contributed to the preservation trust by the grantor having an aggregate fair market value, determined as of the date of each contribution, minus liabilities to which the property is subject, in excess of One Million Dollars (\$1,000,000)." O.S. tit. 31 § 12.	No
18. Does statute prohibit any claim for forced heirship, legitime or elective share?	No	Yes, unless the transferor made the qualified disposition for the purpose of defeating the surviving spouse's elective share rights.	No	No
19. Are there provisions for moving trust to state and making it subject to statute?	No	No	No	No

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
20. Does statute provide that spendthrift clause is transfer restriction described in Section 541(c)(2) of the Bankruptcy Code?	No	Yes	Yes. O.S. tit. 31 § 16.	Yes
21. Does statute provide that trustee automatically ceases to act if court has jurisdiction and determines that law of trust does not apply?	No	No	No	Yes
22. Does statute provide that express/implied understandings regarding distributions to settlor are invalid?	No	Yes	No	Yes
23. Does statute provide protection for attorneys, trustees, and others involved in creation and administration of trust?	Yes. A trustee or an advisor of the settlor or trustee is liable only if it is established by clear and convincing evidence that damages directly resulted from the advisor's violation of the law knowingly and in bad faith. N.R.S. §§166.170(5) and (6).	Yes	No	Yes
24. Does statute authorize a beneficiary to use or occupy real property or intangible personal property owned by trust, if in accordance with trustee's discretion?	No	No, except for QPRT residence.	No. Not addressed in the Act. Oklahoma Trust Act would allow trust agreements to authorize use and occupancy of property with trustee discretion. O.S. tit. 60 § 175.1, et seq.	No, except for QPRT residence.

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
<p>25. Is a non-settlor beneficiary's interest protected from property division at divorce?</p>	<p>Yes, if property is retained in a spendthrift trust for the beneficiary. Even if not retained in trust, property received by gift or inheritance is the beneficiary's separate property; however, trust income and assets can be considered a resource for purposes of determining alimony and child support.</p>	<p>No, however case law establishes that only vested and defined trust interests are included in the valuation of marital estates.</p>	<p>Yes. The Act does not address, but if property is retained in a spendthrift trust for the beneficiary it is protected. Even if not retained in trust, property received by gift or inheritance is the beneficiary's separate property; however, trust income and assets can be considered a resource for purposes of determining alimony and child support. If, after making an express trust, the trustor is divorced, all provisions in such express trust in favor of the trust's former spouse, which are to take effect upon the death of the trustor, are thereby revoked (unless trustor had remarried said former spouse and was married to said spouse at the time of the trustor's death or the decree of divorce or annulment contains a provision expressing an intention contrary to subsection A of this section). Annulment of the trustor's marriage shall have the same effect as a divorce. In the event of either divorce or annulment, the trustor's former spouse shall be treated for all purposes under the express trust, as having predeceased the trustor. O.S. tit. 60 § 175.</p>	<p>Yes, but may be considered in property division.</p>

SUBJECT	NEVADA	NEW HAMPSHIRE	OKLAHOMA	RHODE ISLAND
26. Are due diligence procedures required by statute?	No	No	No	No
27. Is the trustee given a lien against trust assets for costs and fees incurred to defend the trust?	No	Yes	No	Yes
28. Is there statutory authority supporting a trust's non-contestability clause even if probable cause exists for contest?	No	No	No	No
29. Is the trustee given "decanting" authority to modify the trust?	Yes. N.R.S. § 163.556.	Yes N.H. Rev. Stat. Ann. § 564-B: 4-418.	No	No
30. What is allowable duration of trusts?	Up to 365 years	Abolished rule against perpetuities if the trust instrument expressly exempts the instrument from the rule against perpetuities and a trustee has the power to sell.	Rule against perpetuities.	Abolished rule against perpetuities.
31. Does state assert income tax against DAPTs formed by non-resident settlors?	No. Nevada has no state income tax.	Yes	Yes	No
32. Have state limited partnership and LLC statutes been amended to provide maximum creditor protection?	Yes, charging order is only remedy.	Yes, charging order is only remedy.	Yes, charging order is only remedy.	Yes, charging order is only remedy.
33. What is the procedure and time period for a trustee to provide an accounting and be discharged from liability?	Nevada law mandates an annual accounting. N.R.S. § 165.135. Discharge from liability occurs either under the terms of the trust instrument or by court order after a petition for a judicial approval of the account.	One year after trustee provides report that adequately discloses claims. N.H. Rev. Stat. Ann. § 564-B: 10-1005.	Two years after trustee provides report that adequately discloses claims.	Trustee application and court discharge.

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
	Citation: S.D. Codified Laws §§ 55-16-1 - 55-16-17	Citation: Tenn. Code Ann. § 35-16-101	Citation: Utah Code Ann. § 25-6-14	Citation: Wyo. Stat. §§ 4-1-505 and 4-10-510 - 523
	Effective Date: March 2, 2005	Effective Date: July 1, 2007	Effective Date: December 31, 2003	Effective Date: July 1, 2007
	URL: http://www.legis.state.sd.us	URL: http://www.legislature.state.tn.us	URL: http://www.le.utah.gov	URL: http://legisweb.state.wy.us

1. What requirements must trust meet to come within protection of statute?	Trust instrument must: (1) be irrevocable; (2) expressly state that S.D. law governs validity, construction, and administration of trust (unless trust is being transferred to S.D. trustee from non-S.D. trustee); (3) contain spendthrift clause; specifically refer to S.D. Act.	Trust instrument must: (1) be irrevocable; (2) expressly state TN law governs validity, construction and administration of the trust; (3) contain a spendthrift clause.	Trust instrument must: (1) be irrevocable; (2) contain spendthrift clause.	Trust instrument must: (1) state that trust is a "qualified spendthrift trust" under § 4-10-510 of Wyoming statutes; (2) be irrevocable; (3) expressly state Wyoming law governs validity, construction and administration of the trust; (4) contain a spendthrift clause; (5) settlor must have personal liability insurance equal to lesser of \$1,000,000 or value of trust assets.
2. May a revocable trust be used for asset protection?	No	No	No	No
3. Has the state legislature consistently supported DAPTs and related estate planning by continued amendments?	No amendments	Yes. Amendments enacted in 2008 and 2010.	No amendments	No amendments to DAPT statute which was enacted in 2007. However, Legislature has annually supported estate and trust legislation.

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
<p>4. What contacts with state are suggested or required to establish situs?</p>	<p>Suggested: (1) some or all of trust assets deposited in state; (2) S.D. trustee whose powers include (a) maintaining records (can be non-exclusive), (b) preparing or arranging for the preparation of income tax returns; (3) or otherwise materially participates in the administration of the trust.</p>	<p>Required: (1) some or all of trust assets deposited in state; (2) Tennessee trustee whose powers include (a) maintaining records (can be non-exclusive), (b) preparing or arranging for the preparation of income tax returns; (3) or, otherwise materially participates in the administration of the trust.</p>	<p>Required: (1) Utah trust company; (2) some or all of the assets held in certain types of accounts in state.</p>	<p>Required: Wyoming trustee who: (a) maintains custody of some or all of trust assets in state; (b) maintains records (can be non-exclusive); (c) prepares or arranges for the preparation of income tax returns; (d) or, otherwise materially participates in the administration of the trust.</p>
<p>5. What interests in principal and income may settlor retain?</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to 5% interest in total-return trust; (4) QPRT.</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to 5% interest in total-return trust; (4) QPRT; (5) ability to be reimbursed for income taxes attributable to trust, and (6) ability to have debts, expenses and taxes of the settlor's estate paid from the trust.</p>	<p>Settlor may retain interest in CRT.</p>	<p>Settlor may retain interests in: (1) current income; (2) CRT; (3) up to 5% interest in total-return trust; (4) QPRT.</p>
<p>6. What is trustee's distribution authority?</p>	<p>(1) Absolute discretion; (2) pursuant to an ascertainable standard.</p>	<p>(1) Absolute discretion; (2) pursuant to a standard.</p>	<p>(1) Absolute discretion; (2) pursuant to an ascertainable standard.</p>	<p>(1) Absolute discretion; (2) pursuant to a standard.</p>
<p>7. What powers may settlor retain?</p>	<p>Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; and (3) power to replace trustee/advisor with nonrelated/nonsubordinate party.</p>	<p>Settlor may retain: (1) power to veto distributions; (2) non-general testamentary power of appointment; (3) power to replace trustee/advisor with nonrelated/nonsubordinate party; and (4) serve as an investment advisor.</p>	<p>Settlor may retain: (1) power to veto distributions; (2) testamentary special power of appointment; and (3) power to appoint nonsubordinate advisors/protectors.</p>	<p>Settlor may retain: (1) power to veto distributions; (2) <i>inter vivos</i> or testamentary general or limited power of appointment; (3) power to add or remove a trustee, trust protector, or trust advisor; (4) serve as an investment advisor.</p>

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
8. Who must serve as trustee to come within protection of statute?	Resident individual or corporation whose activities are subject to supervision by S.D. Division of Banking, FDIC, Comptroller of Currency, or Office of Thrift Supervision. S.D. trustee automatically ceases to serve if it fails to meet these requirements.	Resident individual, or is authorized by Tennessee law to act as a trustee and whose activities are subject to supervision by the Tennessee Dept. of Financial Institutions, the FDIC, the Comptroller of the Currency, or the Office of Thrift Supervision, or any successor thereto.	Institution authorized to engage in trust business in Utah, including Utah depository institutions, non-Utah depository institutions authorized to do business in Utah, and certain other institutions.	Resident individual or a person authorized by Wyoming law to act as trustee or a regulated financial institution.
9. May non-qualified trustees serve?	Yes	Yes	Yes. Individual co-trustees may serve.	Yes
10. May trust have distribution advisor, investment advisor, or trust protector?	Yes. Trust may have one or more advisors (other than trustor) who may remove and appoint qualified trustees or trust advisors or who have authority to direct, consent to, or disapprove distributions from trust. Trust may have investment advisor, including trustor.	Yes. Trust may have: (1) advisors who have authority to remove and appoint qualified trustees or trust advisors; (2) advisors who have authority to direct, consent to or disapprove distributions from the trust; and (3) investment advisors. The term "advisor" includes a trust protector.	Yes. Trust may have non-subordinate advisors/protectors who can remove or appoint trustees; direct, consent to, or disapprove distributions; or serve as investment directors. Settlor may be investment director.	Yes. Trust may have trust protector who can remove or appoint trustees; direct, consent to, or disapprove distributions; change governing law; change beneficiary's interests; and grant or terminate powers of appointment. Trust may have advisors. Settlor may be an advisor.
11. Are fraudulent transfers excepted from coverage?	Yes. Uniform Fraudulent Transfer Act applies, and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.	Yes. Uniform Fraudulent Transfer Act applies and sets aside transfers with intent to hinder, delay or defraud, and transfers made with constructive fraudulent intent.

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
12. Fraudulent transfer action: burden of proof and statute of limitations.	<p>Clear and convincing evidence.</p> <p><u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p>	<p>Burden not addressed by statute.</p> <p><u>Existing creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p> <p><u>Future creditors:</u> Four years after transfer.</p>	<p>Clear and convincing evidence.</p> <p><u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p>	<p>Burden not addressed by statute.</p> <p><u>Existing creditors and future creditors:</u> Four years after transfer, or one year after transfer was or could reasonably have been discovered if claim based upon intent to hinder, delay or defraud. Four years after transfer if claim based upon constructive fraud.</p>
13. Does statute provide an exception (no asset protection) for a child support claim?	Yes	Yes	Yes	Yes
14. Does the statute provide an exception (no asset protection) for alimony?	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust.	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust	Yes	No
15. Does statute provide an exception (no asset protection) for property division upon divorce?	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust. Otherwise, assets are protected.	Yes, if ex-spouse was married to settlor before or on date of transfer of assets to trust. Otherwise, assets are protected.	Yes	No
16. Does statute provide an exception (no asset protection) for tort claims?	Yes, for claims that arise as a result of death, personal injury, or property damage occurring before or on the date of transfer.	No	Yes, see Item 17, below.	No

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
17. Does statute provide other express exceptions (no asset protection)?	No	No	Yes: (1) claim is decision or ruling resulting from judicial, arbitration, mediation, or administrative proceeding commenced prior to or within three years after trust created; (2) public assistance; (3) taxes; (4) violation of certain written representations or agreements; (5) fraud.	Yes. (1) Qualified trust property that is listed upon an application or financial statement used to obtain or maintain credit other than for the benefit of the qualified spendthrift trust; (2) property of a qualified spendthrift trust that was transferred to the trust by a settlor who received the property by a fraudulent transfer.
18. Does statute prohibit any claim for forced heirship, legitime or elective share?	No	Yes	No	No
19. Are there provisions for moving trust to state and making it subject to statute?	Yes	Yes	Yes	Yes, permits transfer of trust property from trust created in another jurisdiction with similar creditor protection for settlor with creditor protection relating back to date of funding of trust created in other jurisdiction. Irrevocable trusts from other states may also elect to become qualified spendthrift trusts if they incorporate law of Wyoming, obtain qualified trustee, and have spendthrift clause.

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
20. Does statute provide that spendthrift clause is transfer restriction described in Section 541(c)(2) of the Bankruptcy Code?	Yes	Yes	Yes	Yes
21. Does statute provide that trustee automatically ceases to act if court has jurisdiction and determines that law of trust does not apply?	No	Yes	No	Yes
22. Does statute provide that express/implied understandings regarding distributions to settlor are invalid?	Yes	Yes	No	No
23. Does statute provide protection for attorneys, trustees, and others involved in creation and administration of trust?	Yes	Yes	Yes	Yes
24. Does statute authorize a beneficiary to use or occupy real property or intangible personal property owned by trust, if in accordance with trustee's discretion?	Yes	Yes	No	No, except for QPRT residence.
25. Is a non-settlor beneficiary's interest protected from property division at divorce?	No	Yes.	No	Yes, but may be considered in property division.
26. Are due diligence procedures required by statute?	No	Yes; affidavit required.	No	Yes; affidavit required.

SUBJECT	SOUTH DAKOTA	TENNESSEE	UTAH	WYOMING
27. Is the trustee given a lien against trust assets for costs and fees incurred to defend the trust?	Yes	Yes	Yes	Yes
28. Is there statutory authority supporting a trust's non-contestability clause even if probable cause exists for contest?	No	No	No	No
29. Is the trustee given "decanting" authority to modify the trust?	Yes	Yes	No	No, but trust protector may have a similar power.
30. What is allowable duration of trusts?	Abolished rule against perpetuities.	Up to 360 years.	Up to 1,000 years.	Up to 1,000 years, except for real property.
31. Does state assert income tax against DAPTs formed by non-resident settlors?	No	No, if the beneficiaries are nonresidents. If the beneficiaries are residents, a tax is levied on dividends and interest.	No, except for Utah source income, such as rental income from Utah real property.	No
32. Have state limited partnership and LLC statutes been amended to provide maximum creditor protection?	Yes; charging order is only remedy.	Yes for LLCs; charging order is only remedy. No for LPs.	Yes, charging order is only remedy.	Yes; charging order is exclusive remedy.
33. What is the procedure and time period for a trustee to provide an accounting and be discharged from liability?	180 days after trustee provides accounting, or by order of court for supervised trusts.	One year after trustee provides report that adequately discloses claims.	Six months after trustee provides report that adequately discloses claims.	Two years after trustee provides report that adequately discloses claims.