

Significant Differences in States' Enacted Uniform Trust Codes

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Statutes are subject to change; the date of the most recent update to each state comparison may be found on the last page of this chart.

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Total length: 35 pages

UNIFORM TRUST CODE	KANSAS K.S.A. 58a-101 to 58a-1106 Effective: January 1, 2003	WYOMING W.S. 4-10-101 to 4-10-1001 Effective: July 1, 2003	NEW MEXICO 46A-1-10 to 46A-11-1104 Effective: July 1, 2003	NEBRASKA 30-3801 to 30-38,110 Effective January 1, 2005	D.C. 19-1301.01 to 19-1311.03 Effective: March 10, 2004
§101					
§102					
§103	<p style="text-align: center;">X</p> <p>Omits [UTC] subsection (2), “Ascerttainable standard.” <i>(2004 amendment not adopted.)</i></p> <p>In paragraph (10)(A) [UTC (11)(A)] defining “Power of withdrawal”, adds: “...ascertainable standard <u>relating to an individuals health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on July 1, 2006;</u>”</p> <p>Changes subsection (12) [UTC (13)] defining “Qualified beneficiary” to read: (12)(A) “Qualified beneficiary means a beneficiary who <u>as of the date in question, either is eligible to receive mandatory or discretionary distributions of trust income or principal, or who would be so eligible if the trust terminated on that date.</u> <u>(B) For the purpose of trustee determining “qualified beneficiaries” of a trust in which a beneficial interest is subject to a power of appointment of any</u></p>	<p style="text-align: center;">X</p> <p>Moves UTC subsection (2) defining “Ascerttainable standard” to subsection (xxvii).</p> <p>Adds subsection (vi): <u>“Excluded fiduciary” means any fiduciary excluded from exercising certain powers under the trust instrument or by court order which powers may be exercised by the settler, trust advisor, trust protector or other persons designated by the instrument or court order;</u></p> <p>Adds subsection (vii): <u>“Fiduciary” means a trustee under a testamentary or other trust, an executor, administrator, or personal representative of a decedent’s estate, or any other party including a trust advisor or a trust protector, who is acting in a fiduciary capacity for any person, trust or estate;</u></p> <p>Changes the definition of “Guardian” in subsection (viii) [UTC (7)] to reference W.S. 3-1-101(a)(v).</p> <p>Adds subsection (ix):</p>	<p style="text-align: center;">X</p> <p>Omits [UTC] subsection (2), defining “ascertainable standard.” <i>(2004 amendment not adopted).</i></p> <p>Omits [UTC] subsection (11)(A), and omits “by another person” from [UTC] subsection (11)(B). <i>(2004 amendment not adopted).</i></p> <p>Omits the language “without causing the trust to terminate; or” from subsection (L)(2) [UTC (13)(B)]. <i>(2004 amendment not adopted).</i></p>	<p style="text-align: center;">X</p> <p>Adds: (14) <u>“Regulated financial-service institution” means a state-chartered or federally chartered financial institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation.</u></p> <p>Omits [UTC] subsection (2), defining “ascertainable standard.” <i>(2004 amendment not adopted).</i></p> <p>Adds a definition for “Distributee”, “Permissible Distributee” and “Settlor’s successors in interest”</p> <p>In subsection (12) [UTC (11)], defining “Power of withdrawal,” omits [UTC] paragraph (11)(A), and omits “by another person” from [UTC] paragraph (11)(B). <i>(2004 amendment not adopted).</i></p> <p>Omits the language “without causing the trust to terminate; or” from subsection (14)(B) [UTC (13)(B)]. <i>(2004 amendment not adopted).</i></p>	

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	<p><u>nature, the trustee may conclusively presume such power of appointment has not been exercised unless the trustee has been furnished by the powerholder or the legal representative of the powerholder or the powerholder's estate with the original or a copy of an instrument validly exercising such power of appointment, in which event the qualified beneficiaries shall be subsequently determined by giving due consideration to such exercise unless and until the trustee has been given notification in a similar manner of an instrument which validly revokes or modifies such exercise.</u></p>	<p><u>"Incapacity" or "incompetency" or "incompetent person" means as defined in W.S. 3-1-101(a)(ix) unless otherwise defined by the terms of the trust;</u></p> <p>Does not divide (xiii) [UTC (11)] into subparagraphs (A) and (B), but retains essentially the same language. <i>(2004 partially adopted.)</i></p> <p>Different definition for "Qualified beneficiary": <u>"a beneficiary who is currently entitled to distributions of income or principal from the trust or has a vested remainder interest in the residuary of the trust which is not subject to divestment;"</u> <i>(2004 amendment not adopted.)</i></p> <p>Adds the following language to subsection (xix) [UTC 16]: <u>"...a beneficiary's interest and shall not include or prevent a disclaimer of an interest of a beneficiary;"</u></p> <p>Adds subsection (xxii): <u>"Trust advisor" means the settler of a trust instrument or other parties whose appointment is provided in the trust instrument and whose powers are defined and limited in W.S. 4-10-712;</u></p> <p>Adds subsection (xxiii): <u>"Trust protector" means any disinterested party whose</u></p>			

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		<u>appointment is provided for in the trust instrument or who is appointed by a court of competent jurisdiction and whose powers are defined in W.S. 4-10-710;</u> Adds subsection (xxvi): “ <u>This act</u> ” means W.S. 4-10-101 through 4-10-1103. Adds subsection (xxviii): “ <u>Directed trust</u> ” means a trust where either through the terms of the trust, an agreement of the qualified beneficiaries or a court order, one (1) or more persons is given the authority to direct, consent to or disapprove a fiduciary’s actual or proposed investment decision, distribution decision or any other noninvestment decision of the fiduciary.			
§104					
§105	<p style="text-align: center;">X</p> <p>Changes paragraph (b)(2) to read: “...act in good faith and <u>administer the trust in accordance with K.S.A. 58a-801, and amendments thereto.</u>”</p> <p>(b)(5) replaces “the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust...” with <i>the effect of the rights of creditors to reach a trust as provided in article 5 of chapter 58a of the Kansas Statutes</i></p>	<p style="text-align: center;">X</p> <p>Omits the italicized language from [UTC] subsection (b)(2): “the duty of a trustee to act in good faith and in accordance with the <i>terms and</i> purposes of the trust <i>and the interests of the beneficiaries;</i>” (2005 amendment not adopted.)</p> <p>Omits optional [UTC] subsections (b)(8) and (b)(9).</p>	<p style="text-align: center;">X</p> <p>Omits the following language from (b)(2): “the duty of a trustee to act in good faith and in accordance with the <i>terms and</i> purposes of the trust <i>and the interests of the beneficiaries;</i>” (italicized text omitted). (2005 amendment not adopted.)</p>	<p style="text-align: center;">X</p> <p>Omits the italicized language from [UTC] subsection (b)(2): “the duty of a trustee to act in good faith and in accordance with the <i>terms and</i> purposes of the trust <i>and the interests of the beneficiaries;</i>” (2005 amendment not adopted.)</p> <p>Omits optional paragraph (b)(8).</p> <p>Adds language to paragraph (b)(8) [UTC (b)(9)]: “the duty under subsection (a) of section</p>	<p style="text-align: center;">X</p> <p>Omits the italicized language from [UTC] subsection (b)(2): “the duty of a trustee to act in good faith and in accordance with the <i>terms and</i> purposes of the trust <i>and the interests of the beneficiaries;</i>” (2005 amendment not adopted.)</p> <p>Adds the following language to (b)(8) & (b)(9), “Subject to subsection (c) of this section,”</p> <p>Adds a subsection (c) which</p>

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	<p><i>Annotated, and amendments thereto;</i></p> <p>Omits optional subsections (b)(8), (b)(9), (b)(14)</p> <p>Adds (b)(12): <u>the barring of claims against trusts and trustees under K.S.A. 2004 Supp. 58a-818, and amendments thereto.</u></p> <p>Adds (c) requiring that trusts created by will and admitted to probate be subject to the requirements of KSA chapter 59.</p>			<p>30-3878 to <u>keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests, and to respond to the request...</u></p> <p>Adds (b) (14): <u>“the power of the court under subdivision (a)(1) of section 30-3807”</u> [Referring to UTC §107)]</p> <p>Adds (b)(16): <u>“the power of the court to review the action or the proposed action of the trustee for an abuse of discretion.”</u></p>	<p>allows the settlor to waive or modify the trustee’s duties to give notice, information and reports to beneficiaries.</p> <p>Omits (b)(14)</p>
§106					
§107	<p>X</p> <p>Replaces the phrase “strong public policy of the jurisdiction” in UTC 107(1) with <u>“the law of the jurisdiction”</u></p>	<p>X</p> <p>Omits the following language from the end of (a)(1): “unless the designation of that jurisdiction’s law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue.”</p> <p>Adds (b): Choice of law designated in the trust terms may be changed to the law of the principal place of administration by the court having subject matter jurisdiction</p>		<p>X</p> <p>Adds to (a): “Except as provided in subsection (b) of this section,”</p> <p>Adds subsection (b): <u>The meaning and effect of the terms of a trust that pertain to title to Nebraska real estate are determined by the law of Nebraska.</u></p>	
§108	<p>X</p> <p>In subsection (b) omits the word “continuing” and adds the</p>	<p>X</p> <p>Adds subsection (a)(iii): <u>The settler was a resident of the</u></p>			

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	following: <u>In determining the appropriate place for the administration of the trust, consideration shall be given to the designation of the settler, the purposes of the trust, the interests of the beneficiaries and the manner and costs of trust administration.</u> ”	<u>designated jurisdiction at creation of the trust instrument.</u> Adds the following language to subsection (b): “... <u>unless otherwise provided in subsection (a) of this section or changed as provided in subsection (c) of this section.</u> ” Adds language to (d) allowing qualified beneficiaries to <i>waive by written consent</i> notice of a proposed transfer of a trust’s principal place of administration Omits (f)			
§109				X In subsection (d), notice of a judicial proceeding “ <u>may</u> ” be given rather than <i>must</i> be given as in UTC subsection (d).	
§110	X Omits UTC subsection (a). Changes (a) [UTC (b)] to read: “A charitable organization expressly mandated to receive distributions under the terms of a trust <u>or</u> has...” In paragraphs (a)(1)-(3) [UTC (b)(A)-(C)] omits all references to “permissible distributee.”	X Adds the following underlined language to (a): The notice required to be given to qualified beneficiaries <u>before the death of the settlor may</u> (not must, as in the UTC) also be given to any beneficiary from whom the trustee <u>has received a written request, if the trustee has the written consent of the settlor.</u> Adds new subsection (b): <u>Whenever notice to qualified beneficiaries of a trust is required under this act after the</u>	X Adds the language of subsection (c) to the end of subsection (b). <i>(2004 amendment not adopted.)</i> Omits the following language from the end of subsection (b): “...has the rights of a qualified beneficiary under this[Code] if the charitable organization, on the date the charitable organization’s qualification is being determined:” <i>(2004 amendment not adopted.)</i> Omits subsections (b)(A),		X Adds the language of subsection (c) to the end of subsection (b). <i>(2004 amendment not adopted.)</i> Omits the following language from the end of subsection (b): “...has the rights of a qualified beneficiary under this [Code] if the charitable organization, on the date the charitable organization’s qualification is being determined:” <i>(2004 amendment not adopted.)</i> Omits subsections (b)(A),

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		<p><u>death of the settler, the trustee shall give notice to any beneficiary from whom the trustee has received a written request for notice unless the terms of the trust specify otherwise.</u></p> <p>Subsection (c) [UTC §110(b)] omits the following language: “the terms of a charitable trust <i>has the rights of a qualified beneficiary under this [Code] if the charitable organization, on the date the charitable organization’s qualification is being determined...</i>”; omits [UTC] (b)(A), (b)(B), and (b)(C); incorporates UTC §110(c). <i>(2004 amendment not adopted.)</i></p> <p>Add to optional subsection (d): “...having its principal place of administration in this state <u>by notifying the trustee by written notice.</u>”</p>	(b)(B), and (b)(C). <i>(2004 amendment not adopted.)</i>		(b)(B), and (b)(C). <i>(2004 amendment not adopted.)</i>
§111	<p>X</p> <p>Changes subsection (b) to read: “...with respect to <u>the matters listed in subsection (d).</u>”</p> <p>Omits UTC paragraphs (d)(1) and (d)(3).</p>	<p>X</p> <p>Adds to subsection (c): “<u>Subject to the rights of persons dealing with a fiduciary as provided in W.S. 4-10-1013,</u> a nonjudicial settlement...”</p>		<p>X</p> <p>Adds to subpart (c): “A spendthrift provision in the terms of the trust is presumed to constitute a material purpose of the trust.”</p>	
§112 (optional section)		<p>X</p> <p>Omits this optional section</p>		<p>X</p> <p>Omits this optional section</p>	<p>X</p> <p>Omits this optional section.</p>
§201		X			

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		Adds the following to subsection (c): “...an action to declare rights, <u>or to appoint a trust protector.</u> ”			
§202					
§203	X Omits subsection (b).			X Does not have the UTC language; instead includes its own provisions relating to Subject-Matter Jurisdiction	X Omits this section
§204	X Adds to (a): “...is or will be located <u>in the county in which any real property in which the trust has an interest is located and...</u> ”	X Adds subsection (c): <u>If the governing law of a trust designates this state, the venue for judicial proceeding involving a trust is in a county of this state in which a beneficiary resides, in a county in which any trust property is located or in a county where the trustee maintains an office.</u> Adds subsection (d): <u>If venue is not established under subsection (c) of this section, venue shall be proper in the first judicial district court in Laramie county.</u>	X Omits this section	X Adds subsection (c): <u>If a trust is registered in Nebraska, unless the registration has been released, the venue is in the court in which the trust is registered, even if there is no trustee.</u> Adds subsection (d): <u>(i) Where a proceeding under the Nebraska Uniform Trust Code could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.</u> <u>(ii) If the proceedings concerning the same trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of</u>	X Omits this section

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				<u>venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to another court.</u> <u>(iii) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.</u>	
§301	X Omits optional subsection (d). (2004 amendment not adopted.)		X Omits optional subsection (d). (2004 amendment not adopted.)		X Adds to (b): the person represented must object to the representation by notifying the trustee or representative. Omits optional subsection (d). (2004 amendment not adopted.)
§302		X Omits language at the beginning that limits representation under §302 to the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented on a particular issue			X Completely rewrites this section.
§303		X Adds language to (a)(6): the parent <i>with legal custody</i> may represent and bind minor or <i>incapacitated</i> children (omits unborn children) if no legal representative has been			X Adds (7) & (8) which includes representation of a grandchild and by a qualified beneficiary.

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		<p>appointed by the court for the various individuals listed in (a)(6) <i>to the extent there is no conflict of interest</i></p> <p>Adds (a)(7): Beneficiary who is not a qualified beneficiary shall be represented and bound by the qualified beneficiary through whom the beneficiary will receive his interest in the trust</p> <p>Adds (b): Trustee may rely on a certificate of the fiduciary described in subparagraphs (a)(1) through (a)(5) with regard to whether or not any conflict exists</p>			
§304					<p>X</p> <p>Adds “<u>with respect to the particular question or dispute</u>” to the last sentence</p>
§305					
§401	<p>X</p> <p>Adds to subsection (2): “...as trustee, <u>so long as such property would not otherwise pass at the owner’s death by a beneficiary designation to a party other than the trust; or...</u>”</p>	<p>X</p> <p>Adds (a)(iv): Trust may be created by the court as provided in WS 3-3-607(a)(vi)</p> <p>Adds (a)(iv): Trust may be created by an agent with express authority under a power of attorney when the trust directs distribution upon the settlor’s death consistent with some testamentary instrument or, in absence thereof, according to the intestacy law under W.S. 2-4-101.</p>			<p>X</p> <p>Allows the transfer of property to another person as trustee <u>or to the trust in the trusts’ name</u> under (1) for the creation of a trust.</p> <p>Adds (4): <u>trust may be created by a court through Chapter 1 or Subchapter VI of Chapter 20 of Title 21 of the DC Official Code.</u></p>

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§402		X [4-10-403] Expands subsection (c) to grant the power to select a beneficiary to the trust advisor, trust protector, or other party designate din the trust instrument.			
§403				X Adds new subsection (2): <u>except with respect to Nebraska real estate, ...</u> Moves UTC subsections (2) and (3) to subparagraphs (2)(A) and (2)(B) respectively	
§404					
§405			X Adds subsection (D): <u>The corpus and income of a charitable trust may only be expended in furtherance of the charitable mission of the charitable trust, unless that charitable mission is amended or the charitable trust terminated pursuant to a cy pres proceeding as described in Section 4-413 of the Uniform Trust Code.</u> Adds subsection (E): <u>The attorney general, as parens patriae, shall have authority to maintain a proceeding to enforce</u>		

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			<u>the charitable trust and its charitable mission.</u> Adds subsection (F): <u>Nothing contained in the Uniform Trust Code [46A-1-101 to 46A-11-1104 NMSA 1978] shall limit the authority of the attorney general under the Charitable Solicitations Act [Chapter 57, Article 22 NMSA 1978].</u>		
§406	<p style="text-align: center;">X</p> <p>Adds subsection (b): <u>Any provision in a trust, written or prepared for another person, that transfers property and that gives the writer or preparer or the writer or preparer’s parent, children, issue, sibling or spouse any direct or indirect benefit is invalid unless (1) the writer or preparer is related to the settler by blood, marriage or adoption and the benefit is not more than the writer or preparer or the writer or preparer’s parent, children, issue, sibling or spouse would receive under the laws of intestate succession, if the transfer or benefit passed in that manner; or (2) it affirmatively appears that the settler had read or knew the contents of the trust and had independent legal advise with reference thereto. The words “children” and “issue” as used in this section, are defined in K.S.A. 59-501, and</u></p>	<p style="text-align: center;">X</p> <p>[4-10-407]</p> <p>Adds at the beginning of the section: <u>“Subject to the rights of persons dealing with a fiduciary as provided in W.S. 4-10-1013,…”</u></p>			

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	<u>amendments thereto.</u>				
§407				X Adds the following language: “...the creation of an oral trust and its terms, <u>or an amendment or revocation of an oral trust,</u> may be established only...”	
§408					
§409		X Omits the following language from end of (1): “The trust may not be enforced for more than 21 years.”			
§410	X Uses “ <u>qualified</u> beneficiary” instead of “beneficiary” in (b)			X Omits the optional language in subsection (b).	
§411	X Omits optional language from (a): “ <i>If, upon petition, the court finds...</i> ” Uses “ <u>qualified</u> beneficiary” instead of “beneficiary” in subsections (a), (b), (d), (e) In (a), requires that person exercising a power of attorney to consent to modification or termination be an “attorney in fact,” not an “agent.”	X [4-10-412] Changes subsection (a) to read as follows: “ <u>If upon petition the court finds that the settlor and all beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, the court may enter an order approving the modification or termination, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor’s power to consent to a modification or termination of a trust may be exercised by an</u>	X Omits the following optional language from subsection (a): “If, upon petition, the court finds that the settlor and all beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, the court shall approve the modification or termination even if the modification or termination is inconsistent with a material purpose of the trust” and “This subsection does not apply to irrevocable trusts created before or to revocable trusts that become irrevocable before [the effective date of this	X Omits the first optional passage from subsection (a): “ <i>A noncharitable irrevocable trust may...</i> ” Also omits the last optional passage from subsection (a): “ <i>This subsection does not apply...</i> ”	X Omits the second optional sentence in subsection (a) beginning “ <i>If, upon petition, the court finds...</i> ” as well as the final optional passage from that subsection beginning “ <i>this subsection does not apply...</i> ”

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		<p><u>agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust or, if no agent is so authorized, then by the settlor’s conservator or guardian. Exercise of the settlor’s power to consent by an agent, conservator, or guardian shall be in each case with the approval of the court upon a finding by the court that such action is not inconsistent with the settlor’s purpose or intent. (2004 partially adopted.)</u></p> <p>Adds new (b): If the trust terms authorize it, a trust protector may modify or terminate a noncharitable irrevocable trust.</p> <p>Adds the following underlined language to (e) (This is subsection (d) in UTC): Upon termination of the trust, the trustee shall distribute the trust property <u>as provided in the terms of the trust or in default of such terms of the trust</u> as agreed by <u>all</u> beneficiaries</p>	<p>[Code] [amendment].].” (2004 amendment not adopted.)</p>		

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§412					
§413	X Replaces UTC 413 entirely: ¹	X Omits subsection (b)	X Adds subsection (c): <u>The attorney general as parens patriae is a necessary party to any cy pres proceeding in the Uniform Trust Code.</u>		X Omits subsection (b).
§414	X Adds subsection (e): <u>“This section does not apply to any trust if its assets are distributable to the trustee or anyone the trustee is obligated to support.”</u>	X Instead of the language of UTC §414(a), sets out a specific procedure in subsection (a) for termination of a trust with a fair market value less than \$150,000. Omits UTC §414(b) and (c) and instead states that a spendthrift or similar provision does not affect the powers under this section unless the trust instrument provides that the trustee does not have the power to terminate the trust.			
§415					
§416					

¹ [58a-413] (a) If a charitable trust is or becomes illegal or impossible or impracticable of fulfillment or if a devise or bequest for charity, at the time it was intended to become effective is illegal or impossible or impracticable of fulfillment, and if the settlor, manifested a general intention to devote the property to charity, any judge, on application of any trustee, any interested party or the attorney general, may order an administration of the trust, as nearly as possible to fulfill the manifested general charitable intention of the settlor. In every such proceeding, the attorney general, as representative of the public interest, shall be notified and given an opportunity to be heard. The provisions of this act shall not be applicable if the settlor has provided, either directly or indirectly, for an alternative plan in the event the charitable trust is or becomes illegal or impossible or impracticable of fulfillment. If the alternative plan is also a charitable trust, the intention shown in the original plan shall prevail in the application of this act.

(b) If a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in section 2055(a) of the federal internal revenue code of 1986, as in effect on December 31, 2000, to meet the requirements of section 170(f)(3)(B) or 2055(e)(2) of the federal internal revenue code of 1986, as in effect on December 31, 2000, then in order that such deduction shall nevertheless be allowable under section 2055(a) of the federal internal revenue code of 1986, as in effect on December 31, 2000, any judge, on application of any trustee, or any interested party may:

(1) With the written consent of the charitable beneficiaries, the noncharitable beneficiaries not under any legal disability and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability or conservator; or

(2) upon a finding that the interest of such beneficiaries is substantially preserved, order a change to the trust by reformation, amendment, construction or otherwise, which changes a reformable interest into a qualified interest within the meaning of section 2055(e)(3) of the federal internal revenue code of 1986, as in effect on December 31, 2000. In every such proceeding, the attorney general, as representative of the public interest, shall be notified and given an opportunity to be heard.

(c) As used in this act "impracticable of fulfillment" includes, but is not limited to, the failure of any charitable trust, testamentary or inter vivos, including, without limitation, trusts described in section 509 of the federal internal revenue code of 1986, as in effect on December 31, 2000, and charitable remainder trusts described in section 664 of the federal internal revenue code of 1986, as in effect on December 31, 2000, to include, if required to do so by section 508(e) or section 4947(a) of the federal internal revenue code of 1986, as in effect on December 31, 2000, the provisions relating to governing instruments set forth in section 508(e) of the federal internal revenue code of 1986, as in effect on December 31, 2000.

(d) The provisions of this section shall be effective as to all trusts not construed prior to the effective date of this act.

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§417	X Makes [UTC] §417 subsection (a), makes significant additions. ²				
§501		X Replaces “subject to” in the first sentence with “protected by.” (2005 amendment not adopted.)	X Replaces “subject to” in the first sentence with “protected by.” (2005 amendment not adopted.)	X Replaces “subject to” in the first sentence with “protected by.” (2005 amendment not adopted.)	X Replaces “subject to” in the first sentence with “protected by.” (2005 amendment not adopted.) Adds an additional sentence at end, that creditors cannot compel or exercise beneficiary’s rights.
§502	X Omits the following from the end of (a) “only if it restrains both voluntary and involuntary transfer.” Adds subsection (d): <u>Whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a</u>	X Adds to beginning of (c): <u>“Other than by valid disclaimer under W.S. 2-1-401....”</u>			

² [58a-417] ... The terms of each new trust created by a division under this section do not have to be identical if the interest of each beneficiary is substantially the same under the terms of the trust prior to its division and the combined terms of all trusts after the division. Two or more trusts may be combined into a single trust if the interests of each beneficiary in the trust resulting from the combination are substantially the same as the combined interests of the beneficiary in the trusts prior to the combination. The trustee shall determine the terms controlling any trust after its combination as authorized by this section. The trustee may make a division under this section by:

- (1) Giving written notice of the division, not later than the 30th day before the date of a division under this subsection, to each qualified beneficiary; and
- (2) executing a written instrument, acknowledged before a notary public or other person authorized to take acknowledgments of conveyances of real estate stating that the trust has been divided pursuant to this section and that the notice requirements of this subsection have been satisfied.
- (b) A trustee, in the written instrument dividing a trust, shall allocate trust property among the separate trusts on a fractional basis by identifying the assets and liabilities passing to each separate trust, or on any other reasonable basis. The trustee shall allocate undesignated trust property received after the trustee has divided the trust into separate trusts in the manner provided by the written instrument dividing the trust, or, in the absence of a provision in the written instrument, in a manner determined by the trustee.
- (c) The trustee may combine two or more trusts under this section by:
 - (1) Giving a written notice of the combination, not later than the 30th day before the effective date of the combination, to each qualified beneficiary; and
 - (2) executing a written instrument, acknowledged before a notary public or other person authorized to take acknowledgments of conveyances of real estate stating that the trust has been combined pursuant to this section and that the notice requirements of this subsection have been satisfied.
- (d) The trustee may divide or combine a testamentary trust after the will establishing the trust has been admitted to probate, even if the trust will not be funded until a later date. The trustee may divide or combine any other trust before it is funded if the instrument establishing the trust is not revocable at the time of the division or combination.

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	<p><u>distribution that is subject to the trustee's discretion even if: (1) The discretion is expressed in the form of a standard for distribution; or (2) the trustee has abused the discretion.</u></p> <p>Adds subsection (e): <u>This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.</u></p>				
§503	<p>X</p> <p>Omits this section</p>	<p>X</p> <p>Omits [UTC] subsection (b) and (c). <i>(2005 amendment not adopted.)</i></p> <p>Adds subsection (b): <u>“Even if a trust contains a spendthrift provision, a beneficiary’s child, who has a judgment or court order against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary’s interest in the trust, may obtain from a court an order attaching present or future distributions to, or for the benefit of, the beneficiary.”</u> <i>(2005 amendment not adopted.)</i></p>	<p>X</p> <p>Replaces subsections (b) and (c) with the following sections:</p> <p><u>(B) Even if a trust contains a spendthrift provision, a beneficiary's child, spouse or former spouse who has a judgment or court order against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.</u></p> <p><u>(C) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.”</u></p> <p><i>(2005 amendment not adopted.)</i></p>	<p>X</p> <p>Replaces subsections (b) and (c) with the following sections:</p> <p><u>(B) Even if a trust contains a spendthrift provision, a beneficiary's child, spouse or former spouse who has a judgment or court order against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.</u></p> <p><u>(C) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.”</u></p> <p><i>(2005 amendment not adopted.)</i></p>	<p>X</p> <p>Replaces subsections (b) and (c) with the following subsections:</p> <p><u>(b) Whether or not a trust contains a spendthrift provision, a beneficiary’s child, who has a judgment or court order against the beneficiary for support or maintenance, may obtain from a court an order attaching present or future distributions when payable under the terms of the trust to or for the benefit of the beneficiary.</u></p> <p><u>(c) A spendthrift provision is unenforceable against a claim of the District of Columbia or the United States to the extent a statute of the District of Columbia or federal law so provides.</u></p> <p><i>(2005 amendment not adopted.)</i></p>

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§504	X Omits this section.	X Omits all references to support or maintenance for spouses and former spouses in subsections (c)(1) and (c)(2), thereby limiting court ordered distributions to beneficiary's children only. Rewords subsection (e) as follows: <u>A creditor may not reach the interest of a beneficiary who is also a trustee or cotrustee, or otherwise compel a distribution, if the trustee's discretion to make distributions for the trustee's own benefit is limited by an ascertainable standard.</u> (2004 amendment adopted, but reworded.)	X Omits subsection (e). (2004 amendment not adopted.)	X Rewords subsection (e) as follows: <u>A creditor may not reach the interest of a beneficiary who is also a trustee or cotrustee, or otherwise compel a distribution, if the trustee's discretion to make distributions for the trustee's own benefit is limited by an ascertainable standard.</u> (2004 amendment adopted, but reworded.)	X Omits this section.
§505	X In (a)(3), adds: ... the property of a trust that was revocable at the settlor's death is subject to... <u>"the homestead, homestead allowance, all the elective share rights of the surviving spouse pursuant to K.S.A. 59-6a209, and amendments thereto,"</u> ... Adds subsection (b)(3): <u>this subsection shall not apply to the lapse of powers held by the spouse of a person occurring upon the death of such person.</u>	X Changes subsection (b)(ii) [UTC (b)(2)] to read: "upon the lapse, release, or waiver of the power, the holder is <u>no longer treated as the settler with respect to the property affected by the lapse, release or waiver.</u> "		X Adds to end of (a) (3): -- Proceedings to assert liability for claims under this section may not commence unless the personal representative has received a written demand from the spouse, creditor, child, representative of the child --Proceedings must commence within one year of settlor's death --Sums recovered by the personal representative must be administered as part of the settlor's estate. --Liability under (a)(3) does not	X Adds to §(a)(3) references to other DC Code sections Adds parts (c), (d), & (e) dealing with proceedings in DC other than a small estate proceeding and notice to be given.

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				<p>apply to assets otherwise exempt under federal law.</p> <p>Adds (a) (4), which deals with who may be joined as a party to a proceeding under (a)(3).</p> <p>Adds (a)(5): A trustee is released from liability on assets distributed to beneficiaries unless the trustee received notice of insufficiency of settlor's estate to cover claims</p>	
§506	<p>X</p> <p>In subsection (a) changes language to read: "...exercise of the trustee's discretion <u>whether or not the terms of the trust (1) include a support or other standard to guide the trustee in making distribution decisions; or (2) provide that the trustee "may" or "shall" make discretionary distributions, including distributions pursuant to a support or other standard.</u>"</p>	<p>X</p> <p>[4-10-507]</p> <p>Omits [UTC] subsection (a). (2005 amendment not adopted.)</p>	<p>X</p> <p>Omits subsection (a). (2005 amendment not adopted.)</p>	<p>X</p> <p>Omits subsection (a). (2005 amendment not adopted.)</p>	<p>X</p> <p>Omits subsection (a). (2005 amendment not adopted.)</p>
§507					
§601					
§602	<p>X</p> <p>In subsection (e) replaces "agent" with "attorney in fact," and replaces "authorized by the terms of the trust or the power" with "authorized by the power of attorney.</p>	<p>X</p> <p>Omits the following language from the end of (a): "<i>This subsection does not apply to a trust created under an instrument executed before [the effective date of this [Code]].</i>"</p> <p>Adds language to end of (b)(2): "... trust may only be amended by joint action of all settlors."</p>		<p>X</p> <p>Adds paragraph (b)(3): <u>upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.</u></p> <p>Adds the following underlined language to (c): "A settler may revoke or amend a <u>written</u></p>	

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		<p>Replaces (c)(2)(A) with the following: <u>A statement expressly amending or revoking the trust in a writing signed by the settler or in the settler’s will;</u></p> <p>Adds language to end of (g): “... and finding that it meets the settler’s purpose or intent in establishing the trust.”</p> <p>Adds subsection (f): <u>Except to the extent otherwise provided in the terms of the trust, a power to revoke a trust includes the power to amend the trust.</u></p> <p>Adds the following underlined language to (h) : “A trustee who does not know <u>or have actual knowledge....</u>”</p>		revocable trust....”	
§603	<p>X</p> <p>In subsection (a) deletes language between “is revocable” and “the duties.”</p> <p>Adds subsection: <u>(c)(1) If a settlor of a revocable trust is or becomes an incapacitated person, on petition of the settlor’s legal representative, an adult member of the settlor’s family or any interested person, including a person interested in the welfare of the settler, for good cause shown, the court may: Order the trustee to exercise or refrain from exercising the trustee’s authority</u></p>	<p>X</p> <p>Adds subsection (b), moving UTC §603(b) to subsection (c): <u>If a revocable trust has more than one (1) settler, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.</u></p>	<p>X</p> <p>Adds subsection (b): <u>If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.</u></p>	<p>X</p> <p>Omits the optional phrase “...and the settler has capacity to revoke the trust” in subsection (a).</p>	<p>X</p> <p>Omits optional language from (a), “<i>and the settler has capacity to revoke the trust</i>”</p> <p>Part (b) is deleted and replaced with new part (b): <u>While a trust is not revocable, for so long as a person has a currently exercisable power of withdrawal over the entire principal of the trust, the duties of a trustee are owed exclusively to such person.</u></p> <p>Adds subsection (c): <u>While a trust is revocable and a settler does not have the capacity to revoke the trust, a beneficiary</u></p>

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	<p><u>in a manner inconsistent with the trustee's fiduciary responsibilities under the provisions of the trust; remove the trustee; require the trustee to account; and issue such other orders as the court finds will be in the best interests of the settler.</u></p> <p><u>(2)(A) The court may require any person petitioning for any such order to file a bond in such amount and with such sureties as required by the court to indemnify either the trustee or the trust estate for the expenses, including attorney fees, incurred with respect to such proceeding.</u></p> <p><u>(B) None of the actions described in this section shall be taken by the court until after hearing upon reasonable notice to the trustee, the settler, and any legal representative of the settler, such as a conservator or attorney-in-fact under a durable power of attorney authorizing the attorney-in-fact to act on the behalf of the settler in such matters.</u></p> <p><u>(C) If there is no legal representative of the settler, the court shall appoint a guardian ad litem to represent the settler in such proceeding.</u></p> <p><u>(D) In the event of an emergency as determined by the court, the court, without notice, may enter such temporary order as seems proper to the court, but not such temporary order shall be effective for more than 30</u></p>				<p><u>shall have the right to enforce the settlor's intent to benefit the beneficiary during the settlor's incapacity.</u></p>

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	<u>days unless extended by the court after hearing on reasonable notice to the persons identified as herein provided.</u>				
§604	<p style="text-align: center;">X</p> <p>In subsection (a)(1) “[three] years” is replaced with <u>one</u> year.</p> <p>In subsection (1)(2) “[120] days” is replaced with <u>four months</u>.</p>		<p style="text-align: center;">X</p> <p>Omits this section</p>	<p style="text-align: center;">X</p> <p>In paragraph (a)(1), the time limit is reduced from three years to one year.</p> <p>Subsection (c) is changed to read: (c) <u>A beneficiary in receipt of property from a trust that is determined to have been invalid is liable to return:</u> Article 9 <u>the property and its income since distribution, if the beneficiary has the property; or</u> <u>(2) the value of the property as of the date of disposition of the property and its income and gain received by the beneficiary, if the beneficiary has disposed of the property.</u></p>	<p style="text-align: center;">X</p> <p>§(a)(1) = 1 year; (2) = 90 days</p> <p>Adds a (3), 6 months after date of publication</p>
§701				<p style="text-align: center;">X</p> <p>Adds paragraph (a)(3): <u>by registering the trust in accordance with established statutory procedures.</u></p>	<p style="text-align: center;">X</p> <p>Omits in (c)(1), “to a qualified beneficiary” and adds “to the designated cotrustee, or, if none, to the successor trustee, or, if none, to a disributee or permissible distributee”</p>
§702	X		X	X	X

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	Different language at end of (a): Bond is required “unless otherwise waived or modified by the terms of the trust.” (UTC requires bond if court finds it to be need or it is required by the trust terms and court has not dispensed with the requirement.) Omits optional subsection (c).		Does not include optional subsection (c)	Changes optional subsection (c) to read: “ <u>A bank or trust company qualified to act as a trustee</u> in this state...”	Part (e) omits “not” & “reasonably expected the trustees to perform jointly” and adds language about what decisions can & cannot be made
§703	X Omits at the end of (h) the following language: “ <i>unless the action is a serious breach of trust.</i> ”	X Different language in (e): A trustee may delegate to a cotrustee a function <i>unless the delegation is expressly prohibited by the trust terms.</i> (UTC states that the trustee may not delegate a function the settler reasonably expected the trustees to perform jointly.)			
§704		X Additional language at end of (c)(1) and (d)(1): “... or in accordance with a manner specified in the trust.” Adds the following underlined language to (d)(2): by a person selected by the charitable organizations expressly designated to receive distributions <u>and noncharitable beneficiary, if any named...</u>			
§705		X Limits subsection (a) to		X Changes paragraph (a)(1) to	X Added in (a)(1) “if there is no

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		<i>revocable living trusts</i> and deletes qualified beneficiaries from receiving notice in (a)(1); Adds new subsection (b) regarding irrevocable, testamentary, and charitable trusts		apply to “ <u>the settler, if living</u> ” as well.	cotrustee, to the next designated successor trustee”
§706	X Article 9 adds the following underlined language: “The Settler, <u>if living</u> , a cotrustee, or a <u>qualified</u> beneficiary may request the court to remove a trustee....” Additional language in subsections (b)(3) and (4) requiring that the grounds for removal in (b)(3) and (4) be “consistent with the terms of the trust” Subsection (b)(4) does not include the following language: “or removal is requested by all of the qualified beneficiaries”	X Uses “ <u>qualified</u> beneficiary” instead of “beneficiary” in (a)			
§707				X Adds subsection (c): <u>Title to all trust property shall be owned by and vested in any successor trustee without any conveyance, transfer, or assignment by the prior trustee.</u>	
§708	X Inserts new subsection (b),	X Adds language to (a) requiring			

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	which provides that trustee is entitled to compensation provided by trust terms “except as such compensation may be increased or decreased upon approval by the trustee and unanimous consent of qualified beneficiaries who do not have a conflict of interest.”	that the trustee notify qualified beneficiaries of any change in the method or rate of the trustee’s compensation and sets out the information to be included in the notice Adds (c): <u>The trustee shall be entitled to additional compensation on agreement of all qualified beneficiaries.</u> Adds (d): Trustee’s authority to change the rate or method of compensation terminates if a majority of qualified beneficiaries notify the trustee of their objections			
§709		X Adds subsection (a)(ii), moving UTC §709(a)(2) to (a)(iii): <u>Expenses that were properly incurred in responding to an objection to a proposed change in the method or rate of the trustee’s compensation; and</u>			
§801					
§802	X Adds the following underlined language to (a): “A trustee shall administer the trust <u>consistent with the terms of the trust...</u> ” In subsection (f) adds: “ <u>or its affiliate</u> ” after most references to the trustee. Adds to subsection (g): “the	X Omits the italicized language in (b): “Subject to the rights of persons dealing with <i>or assisting the trustee...</i> ” Adds the following underlined language to (d): The transaction described in (d) from which the trustee obtains an advantage <u>beyond the normal commercial</u>	X Omits subsection (b)(3) Omits the word “otherwise” in the phrase “...is not presumed to be affected by a conflict between personal and fiduciary interests if the investment <i>otherwise</i> complies with the prudent investor rule,” found in subsection (f). <i>(2004</i>	X Omits subsection (d)	X Omits the word “otherwise” in (f): “...a conflict between personal and fiduciary interests if the investment <i>otherwise</i> complies...” <i>(2004 amendment not adopted.)</i>

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	trustee shall act in the best interests of the beneficiaries <u>and consistent with the terms of the trust.</u> ”	<p><u>advantage from such a transaction</u> is voidable by the beneficiary...</p> <p>Adds the following underlined language to (f): “... <u>as a condition precedent to receipt of such compensation</u>, and at least annually, the trustee notifies... <u>by delivery of prospectus or other communication.</u>”</p> <p>Omits the word “otherwise” in (f): ”...a conflict between personal and fiduciary interests if the investment <i>otherwise</i> complies...” (2004 amendment not adopted.)</p> <p>Changes “beneficiaries” in (h)(1) to “<u>majority of the qualified beneficiaries</u>”</p> <p>Subsection (i) is moved to subsection (j); there is no subsection (i).</p> <p>Adds new subsection (k): <u>There is no presumption of a conflict of interest when a trustee:</u> Article 9 <u>Makes an investment in an insurance contract purchased from an insurance agency owned by, or affiliated with, the trustee, or any of its affiliates; or</u> (ii) <u>Places securities through a securities broker that is part of the same company as the trustee, is owned by the trustee or is affiliated with the trustee provided the investment</u></p>	<i>amendment not adopted.)</i>		

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		<u>complies with the prudent investor rule contained in the Uniform Prudent Investor Act under W.S. 4-10-901 through 4-10-913 and the trustee at least annually notifies qualified beneficiaries of the rate and method by which the trustee receives compensation.</u>			
§803					
§804					
§805					
§806					
§807	X Adds to subsection (a): “A trustee may delegate duties and powers, <u>other than investment and management functions</u> , that a prudent trustee...”	X Adds to the end of (d): “...an agent submits to the jurisdiction of the courts of <u>the state of Wyoming even if the agency agreement provides otherwise, and the agent may be made a party to any action or proceeding if the issues relate to a decision, action or inaction of the agent.</u> ”		X Moves to §30-3888, near the end of Article 8. In subsection (a), replaces “duties and powers” with “ <u>investment and management functions.</u> ” Changes subsection (c) to read: “...is not liable to the beneficiaries or the trust for <u>the decisions or actions</u> of the agent...”	
§808		X Adds to (d): “...liable for any loss that results from a breach of a fiduciary duty <u>with respect to the holder’s power.</u> ”			
§809					
§810	X Adds section (e): <u>Any property</u>				

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	<u>may be acquired in the name of the trust or in the name of the trustee. Property titled in the trust name may be conveyed only in the trust name.</u>				
§811					
§812					
§813	X Uses “ <u>qualified beneficiary</u> ” instead of “beneficiary” in subsection (a), (b)(1), (d) In subsection (a) adds “qualified” before the mention of the beneficiary in the second sentence. In subsection (b) adds: “ <u>Except as otherwise provided under the terms of the trust, a trustee shall:</u> ” Changes “beneficiary” in (b)(1) to “qualified beneficiary,” and also adds: “...a copy of the <u>portions of the trust instrument relating to the interest of the qualified beneficiary, or a copy of the trust instrument if specifically so requested by the qualified beneficiary;</u> ” In paragraphs (b)(2)-(4) omits all occurrences of “shall.” Adds new paragraph (5): <u>At least annually, send a trust report for the trust’s most recent fiscal year to each qualified beneficiary</u>	X Adds the following underlined language to beginning of (b): “A trustee <u>shall comply with the following provisions unless the trust instrument specifically directs, limits, or waives this requirement of a trustee...</u> ” Uses “ <u>qualified beneficiary</u> ” instead of “beneficiary in (b)(1)” Different language in (c): --Annual report to be given only to qualified beneficiaries; omits nonqualified beneficiaries --Provides that only the amount of the trustee’s compensation be included in the report, except to the extent that compensation has already been disclosed under §802. (UTC calls for both the source and amount of compensation to be included.) --Adds that “the allocation of receipts, disbursements, trustee compensation and expenses of administration between income and principal” should also be in the report. Omits subsection (e). (2004 amendment not adopted.)	X Omits subsection (e). (2004 amendment not adopted.)	X Adds (e): <u>The duties of a trustee specified in this section are subject to the provisions of section 30-3855.</u> [Referencing UTC §603]	X Add to (b), “subject to subsection (e) of this section,” Part (c) is numbered (1)-(6) almost all of UTC §813(c) text is deleted and replaced with new text. Omits (d) and adds a new (d): beneficiaries right to waive trustee’s report Changes the language of subsection (e): “ <u>Subsections (a), (b), and (c) of this section do not apply to a trust created under an instrument executed before the effective date of this chapter [March 10, 2004]</u> ” (this language existed prior to the 2004 amendments, but is very similar)

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	<p><u>who actually received a distribution during such fiscal year, except a beneficiary who received a specific bequest. The trustee shall also send a trust report to any additional qualified beneficiary who would have been eligible to receive a distribution during the fiscal year and who requests a copy of the trust report. The trust report shall include a list of the trust assets, and, if feasible, their market values; liabilities, receipts and disbursements; the source and amount of the trustee's compensation; and if requested, the trust's investment rate of return and whether the method for calculating the rate complies with standards established by the association of investment management and research (AIMR). Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a trust report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a trust report on behalf of a deceased and incapacitated trustee.</u></p> <p>Omits UTC subsection (c).</p> <p>Changes “beneficiary” to “qualified beneficiary in subsection (c) [UTC (d)].</p> <p>Omits [UTC] subsection (e).</p>				

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	<p>Adds (d): <u>The provisions of this section are inapplicable to qualified beneficiaries other than a surviving spouse so long as the surviving spouse is a qualified beneficiary of the trust, or holds any power of appointment over the entire trust estate, and where all other qualified beneficiaries are the issue of the surviving spouse.</u></p> <p>Adds new subsection (e): <u>At the termination of a trust, the trustee shall send a trust report to each qualified beneficiary who is entitled to receive a distribution from the trust, except a beneficiary who received a specific bequest. Such trust report shall include the information required by subsection (b)(5), except information relating to receipts and disbursements need only be prepared for the period from the date of the event that caused the termination of the trust.</u></p>				
§814	<p>X</p> <p>Omits subsections (b) through (d)</p>		<p>X</p> <p>Adds the following language to subsection (b)(1): ...”in accordance with an ascertainable standard <u>relating to the trustee’s individual health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) [26 U.S.C.S. §2041(b)(1)(A)] or 2514(c)(1) [26 U.S.C.S. §2514(c)(1)]</u> of the</p>		<p>X</p> <p>Omits subsections (b) through (d)</p> <p>Adds a new (b): “Section 21-1722 applies to a trust governed by this chapter”</p>

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			<u>Internal Revenue Code of 1986, as amended</u> ; and...” (2004 amendment not adopted.)		
§815	X Changes the “or” between paragraphs (a)(1) and (a)(2) to an “and.”				
§816		X Adds subsection (21)(E): <u>Creating or funding a plan under Section 529 of the Internal Revenue Code of 1986, in effect on July 1, 2003, for the beneficiary’s benefit.</u> Adds subsection (xxvi), moving [UTC] subsection (26) to (xxvii): <u>Purchase and pay from trust principal the premiums on life insurance; and</u> Adds subsection (b): <u>This section may be cited as the Uniform Trustee Powers Act.</u>			X Adds a new (7)(D) which states “exercise stock options and other rights; and”...renumbers the UTC (D) to (E) Adds to (21)(A) for payment to agent of beneficiary Adds (27): life insurance premiums
§817	X Uses “ <u>qualified beneficiary</u> ” instead of “beneficiary” in (a) Adds to subsection (c): “A release, <u>upon termination or partial termination of a trust</u> , by a beneficiary...”				

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§1001			X Omits subsection (b)		
§1002	X Adds paragraph (a)(3): “ <u>if the trustee embezzles or knowingly converts to the trustee’s own use any of the personal property of the trust, the trustee shall be liable for double the value of the property so embezzled or converted.</u> ” Adds subsection (c): <u>The provisions of this section shall not exclude an award of punitive damages.</u>		X Omits subsection (a)		
§1003	X Adds language to subsection (a): “...for any profit made by the trustee, <u>other than compensation earned</u> , arising from...”				
§1004					
§1005			X Omits this section		
§1006					
§1007					X Adds “...requirements, <u>the attainment of a specified age</u> , or...”

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§1008	<p style="text-align: center;">X</p> <p>The language of subsection (b) after “...unless the” is moved to paragraph (b)(1) and new paragraph (b)(2) is added: <u>(2) the settler was represented by an attorney not employed by the trustee with respect to the trust and such attorney has reviewed the exculpatory term and provided independent legal advise regarding such term.</u></p>				
§1009					
§1010					
§1011 (optional section)			<p style="text-align: center;">X</p> <p>Omits this optional section</p>		<p style="text-align: center;">X</p> <p>Omits from (a) “Except as otherwise provided in subsection (c)”</p> <p>Omits subsection (c).</p>
§1012					
§1013	<p style="text-align: center;">X</p> <p>Uses “<u>qualified</u> beneficiary” instead of “beneficiary” in (a)</p> <p>Also requires in (a) that the trustee may furnish an <u>acknowledged</u> certification of trust</p>	<p style="text-align: center;">X</p> <p>Refers to both certification <i>or an affidavit</i> throughout the section</p>	<p style="text-align: center;">X</p> <p>Adds new subsection (a)(9), requiring certification to state that delegation by an agent is not prohibited by the trust instrument if an action is to be done by an agent</p> <p>Adds language in (b) stating that recipient of certification used to affect title to real property may request the certification to be acknowledged by the trustee so it may be recorded</p>	<p style="text-align: center;">X</p> <p>Does not have the exact language of UTC §1013; instead makes amendments to existing §§30-3701 to 30-3704 of NE Revised Statutes, which contain requirements similar to §1013(a) through (f). But, there are no similar provisions to §1013(g) to (i)</p> <p>Amends existing §30-3705, which states that a failure to demand a certification or refusal</p>	

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				to accept or rely on a certification shall not be considered an improper act nor shall any inference be drawn	
§1101					
§1102					
§1103		X Omits this section		X Omits this section	X Omits this section
§1104	X Omits this section	X Omits this section	X Omits this section	X Omits this section	X Omits this section
§1105	X Omits this section	X Omits this section	X Omits this section	X Omits this section	X Omits this section
§1106		X [4-10-1103] Omits [UTC] subsections (a) (3) and (a)(4) Adds (c): --Act applies to a trust created before 7/1/03 if the settler, if living, and all qualified beneficiaries consent to the application. --If the settlor is not living, the act applies to such trusts if all qualified beneficiaries consent. --If all qualified beneficiaries do not consent, the court may apply the act if the interests of those not consenting will be adequately protected. Adds subsection (d): <u>The</u>	X Adds (c): UTC does not apply to trust created by the Enabling Act of NM	X Omits (a)(4) Adds (c): Reference to powers authorized under the NE Uniform Trustees' Powers Act is a reference to powers authorized under the NE UTC Adds (d): "Subsection (a) of section 30-3838, section 30-3839, subsection (b) of section 30-3848, subsection (c) of section 30-3849, and subdivision (b)(1) of section 30-3879 apply only to trusts which become irrevocable on or after the operative date of this section."	

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		<u>provisions of the prior Uniform Trustees Powers Act and Uniform Prudent Investor Act that have been incorporated into this act as W.S. 4-10-816 and 4-10-901 through 4-10-913, respectively, shall apply to any trust created prior to April 1, 2003, unless the trust instrument states otherwise.</u>			
Sections unique to state	<p>Adds §418, “Reference to a written statement or list.”</p> <p>Adds §818, “Debts of deceased settler; notice.”</p> <p>Adds §1107, “Transfer by warranty deed of real property into inter vivos trust; effect of insurance coverage.”</p> <p>Adds §39 of SB 297, relating to “Reference to Written Statement or List”</p>	<p>New section 4-1-402, “Title of trust property”</p> <p>New section 4-10-506. Limitation on action by creditors.</p> <p>New section 4-10-710. Trust protector.</p> <p>New section 4-10-711. Trust protector as a fiduciary.</p> <p>New section 4-10-712. Trust advisor.</p> <p>New section 4-10-713. Trust advisor as a fiduciary.</p> <p>New section 4-10-714. Trust advisor and trust protector subject to district court jurisdiction.</p> <p>New section 4-10-715. Excluded fiduciary liability from actions of trust advisor and trust protector.</p> <p>New section 4-10-716. Power of trust advisor and trust protector</p>		<p>Amends §§30-2801 to 30-2803 of NE Revised Statutes, relating to registration of trusts</p> <p>Adds §30-3816, “Duty to register trusts.”</p> <p>Adds §30-3817, “Registration procedures.”</p> <p>Adds §30-3818, “Clerk of court; records.”</p> <p>Adds §30-3819, “Effect of Registration”</p> <p>Adds §30-3820, “Registration, qualification of foreign trustee.”</p> <p>Adds §30-3821, “Appellate review.”</p> <p>Adds §30-3844, “Reference to written statement or list.”</p> <p>Adds §30-3845, “Renunciation.”</p> <p>Adds §18 of LB 130, also relating to registration of trusts</p> <p>Amends §30-2805, relating to</p>	Adds a §418 titled “Titled of trust property”

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		<p>to act after death or incapacity of grantor.</p> <p>New section 4-10-717. Excluded fiduciary liability for loss of action or inaction of trust advisor and trust protector.</p> <p>New section 4-10-1011. Liability of successor fiduciaries for actions of predecessor.</p>		<p>foreign corporate trustees</p> <p>Adds §21 of LB 130: “Appellate review under the Nebraska Uniform Trust Code shall be governed by section 30-1601.”</p> <p>Adds §45 of LB 130, relating to reference to a written statement or list to dispose of tangible personal property not specifically disposed of by the trust</p>	
Last Update	May 17, 2006 (Added HB2607 amendments)	May 13, 2005	March 30, 2005	May 16, 2005	May 17, 2005