CHAPTER 59-17
PRUDENT INVESTOR STANDARDS

59-17-01. Prudent investor rule.

1. Except as otherwise provided in subsection 2, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in sections 59-16-02, 59-16-03, 59-16-05, 59-16-06, and 59-16-07 and in this chapter.
2. The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

59-17-02. Standard of care - Portfolio strategy - Risk and return objectives.

1. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.
2. A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.
3. Among circumstances a trustee shall consider in investing and managing trust assets are any of the following that are relevant to the trust or its beneficiaries:
   a. General economic conditions;
   b. The possible effect of inflation or deflation;
   c. The expected tax consequences of investment decisions or strategies;
   d. The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
   e. The expected total return from income and the appreciation of capital;
   f. Other resources of the beneficiaries;
   g. Needs for liquidity, regularity of income, and preservation or appreciation of capital; and
   h. An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.
4. A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.
5. A trustee may invest in any kind of property or type of investment consistent with the standards of this title.

59-17-03. Diversification.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

59-17-04. Duties at inception of trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust and with the requirements of this chapter.

59-17-05. Reviewing compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

59-17-06. Language invoking standard.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this chapter: investments permissible by law for investment of trust funds, legal investments, authorized investments, using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, prudent man rule, prudent trustee rule, prudent person rule, and prudent investor rule.