What is the prudent investor rule used by the SIB?
According to NDCC 21-10-07, the SIB "shall apply the prudent investor rule in investing for funds under its supervision. The prudent investor rule means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income."

Chapter 59-17 of the NDCC describes in more detail the prudent investor rule and standards of care. This chapter uses similar language to what is found in the American Law Institute's *Restatement of the Law Third, Trusts: Prudent Investor Rule,* 1992. The General Standard of Prudent Investment, under section 227 of this publication, includes the following:

The trustee is under a duty to the beneficiaries to invest and manage the funds of the trust as a prudent investor would, in light of the purposes, terms, distribution requirements, and other circumstances of the trust. This standard requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation but in the context of the trust portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suitable to the trust.

In making and implementing investment decisions, the trustee has a duty to diversify the investments of the trust unless, under the circumstances, it is prudent not to do so. In addition, the trustee must conform to fundamental fiduciary duties of loyalty and impartiality, act with prudence in deciding whether and how to delegate authority and in the selection and supervision of agents, and incur only costs that are reasonable in amount and appropriate to the investment responsibilities of the trusteeship.

A few points to note:

1. The prudent investor rule focuses on the decision making process at the time, "…under the circumstances then prevailing…" Prudence or imprudence is not determined after the fact, ie, no Monday morning quarterbacks.
2. The evolution of the prudent investor rule states that the standard of care is applied to the total portfolio, not any one investment in isolation. This is very important because it allows a fiduciary to invest in a diversified portfolio without fear of repercussion surrounding any one security purchase.
3. Conformity to fundamental fiduciary duties of loyalty and impartiality. ERISA, which governs the management of corporate benefit plans, defines duty of loyalty as follows: Fiduciaries are to act solely in the best interest of plan participants and beneficiaries (both current and future) for the exclusive purpose of providing benefits for participants and their beneficiaries, and to defray reasonable expenses of administering the plan. While state funds are not governed by ERISA, best practices are to follow the ERISA standard. We must always be aware and avoid any potential (real or perceived) conflicts of interest.
4. Risk and return objectives should be suitable to the purpose of the fund.