

MEMO# 1179

June 7, 1989

NORTH DAKOTA PASSES INVESTMENT ADVISER LEGISLATION

June 7, 1989 TO: INVESTMENT ADVISER MEMBERS NO. 33-89 INVESTMENT ADVISER ASSOCIATE MEMBERS NO. 33-89 RE: NORTH DAKOTA PASSES INVESTMENT ADVISER LEGISLATION _____ North Dakota has enacted North Dakota Senate Bills 2246 and 2175 affecting investment advisers and investment adviser representatives effective July 1, 1989. A copy of the amendments to the North Dakota Code are attached. The amendments contained in North Dakota Senate Bill No. 2246 include numerous provisions concerning registration and post registration requirements for advisers and investment adviser representatives. Some of the more important provisions include an amended definition of investment adviser and a new definition of investment adviser representative, a registration requirement for investment adviser representatives, an exemption from registration for investment advisers which advise only investment companies, an examination requirement, registration fees, dishonest or unethical practices, and a requirement for advisers maintaining custody of client funds. Post registration provisions include recordkeeping requirements, a requirement that financial reports be submitted to the Securities Commissioner, supervisory responsibility requirements, and civil liability provisions. The amendments contained in North Dakota Senate Bill No. 2175 affect only post registration provisions. They require that all books, records and financial reports prescribed by rule be submitted to the Securities Commissioner, correcting amendments for any required document be filed promptly, and all records be subject to examination by the Securities Commissioner. In addition, the amendments provide that the Securities Commissioner may compel an investment adviser or investment adviser representative to provide copies of its books and records to the Commissioner. Many of these statutory requirements, including the definition of investment adviser representative and the registration exemptions, were amended as a result of Institute and Institute member recommendations that were based on the North American Administrators Association, Inc.'s model investment adviser provisions. We will inform you of any rules proposed under the amendments. Robert L. Bunnen, Jr. Assistant General Counsel Attachments