

MEMO# 2923

July 11, 1991

NORTH CAROLINA LEGISLATURE APPROVES ENFORCEMENT PROVISIONS TO INVESTMENT ADVISERS ACT

July 11, 1991 TO: INVESTMENT ADVISERS COMMITTEE NO. 30-91 NORTH CAROLINA
MEMBERS NORTH CAROLINA ASSOCIATE MEMBERS RE: NORTH CAROLINA LEGISLATURE
APPROVES ENFORCEMENT PROVISIONS TO INVESTMENT ADVISERS ACT

Attached is Senate Bill 245 which was recently approved by the North Carolina legislature. The bill contains many of the provisions first introduced in North Carolina in legislation proposing establishment of an investor security fund. (See Institute Memorandum to Investment Advisers Committee No. 21-89, dated May 15, 1989.) The new legislation provides for a prohibition on the use of unlawful telephone rooms; a prohibition on the manipulation of any security; the appointment by the administrator of enforcement agents; restitution and civil penalties up to \$25,000 for violations; and a standard of "reasonable care" in place of the existing "reckless disregard" standard for untruths or omissions regarding material facts. The Institute objected to all provisions relating to an investor protection fund and the bill does not contain any such provisions. We will keep you informed of related developments. W. Richard Mason Assistant Counsel - Pension Attachment