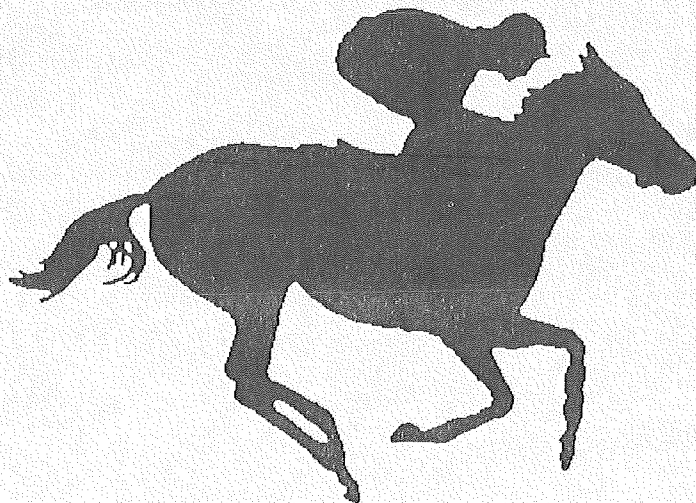


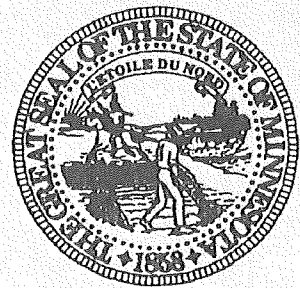
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REPORT OF THE GOVERNOR'S COMMISSION ON CANTERBURY DOWNS

SEPTEMBER 15, 1992



RICHARD L. PEMBERTON, CHAIR
CYNTHIA S. PIPER, VICE CHAIR



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I. PURPOSE AND SCOPE OF REPORT.

In June, 1985 Minnesota gave birth to a new industry, one that combined the thrill of professional sports with the root of the Minnesota economy--agriculture. Canterbury Downs Racetrack opened amid great fanfare and optimism. Seven years later, however, the fanfare has been silenced and the optimism has given way to despair. Today, Minnesota's horse racing industry is perilously close to complete collapse.

The cause of the decline is perhaps not as important as the effect of the decline on Minnesotans and the Minnesota economy. Thousands of people are employed in the horse racing industry and millions of dollars are pumped annually into the State's economy directly as a result of horse racing. Indeed, the Department of Trade and Economic Development estimates that as much as \$100 million of the state's total annual economy is attributable to the horse racing industry.

In an attempt to assess the effect of the horse racing industry on the Minnesota economy and what efforts, if any, could be made to prevent the industry's demise, Governor Carlson issued an Executive Order establishing the Governor's Commission on Canterbury Downs.¹ The Commission is comprised of eleven individuals, drawn from the public and private sectors, who were given the responsibility to:

- (1) review and make recommendations to the Governor relating to the current economic condition of horse racing in Minnesota, its future viability as a stand-alone business and the economic and social impact on the state, and various communities of the state, in the event of the economic failure of Canterbury Downs Racetrack;
- (2) review and make recommendations relating to the social and economic impact on the state and various communities of the state of a business relationship between Canterbury Downs Racetrack and a Minnesota Indian

¹ A copy of the Executive Order is attached to this Report.

tribe including but not limited to the purchase and operation of the track by a Minnesota Indian tribe; and

- (3) prepare and submit its findings and recommendations to the Governor no later than September 15, 1992.

This report is in response to the Governor's Executive Order and is the product of the collective deliberations of the Commission members. The conclusions reached and recommendations contained in the report are the result of several meetings during which the members of the racing industry presented their views on the industry, its decline and the prospects for its revival in the future. Specifically, the Commission heard from:

- Ladbroke Racing Corporation
- The Minnesota Thoroughbred Association
- The Minnesota Quarterhorse Racing Association
- The Minnesota Harness Racing Association
- The Minnesota Arabian Association
- The Minnesota Festival of Champions
- Various individual horsemen and women

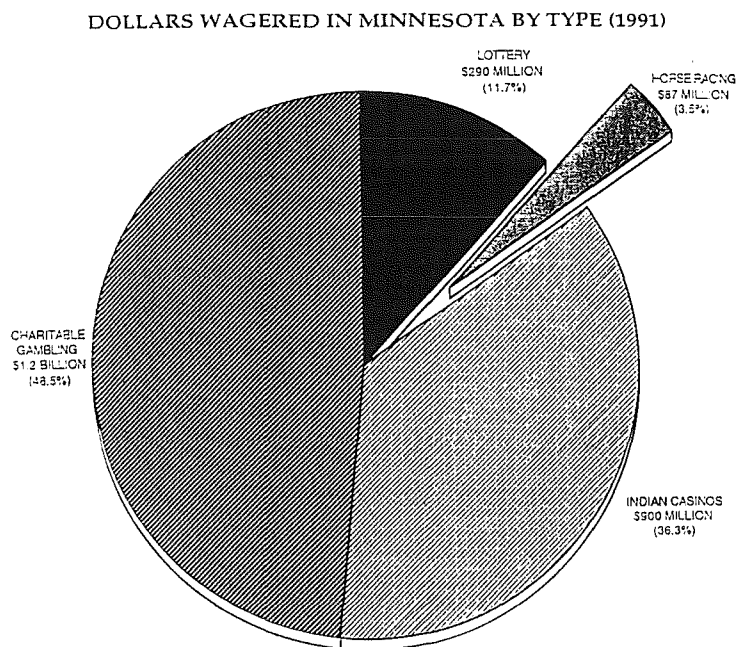
In addition, the Commission consulted with the Minnesota Racing Commission, Minnesota Planning and the Department of Trade and Economic Development to determine the impact of horse racing on the state's economy. The Commission also met with representatives of the Minnesota Indian Gaming Association and Little Six, Inc., to explore the feasibility and likelihood of a purchase of Canterbury Downs by one or more Minnesota Indian tribes. The Commission also gathered and processed a considerable amount of written information pertaining to the gambling industry generally and the racing industry in particular. Finally, the Commission looked to other states to assess the effectiveness of the measures taken in those states to stimulate their declining racing industries.

While many questions were raised, no easy answers emerged. However, one common theme surfaced in all of the discussions--horse racing simply cannot survive in this state in its

current form. If horse racing is to have any continued viability, a significant restructuring of the way horse racing is marketed and distributed is necessary. Such a restructuring will require the governor, the legislature, and indeed, the people of Minnesota, to make significant public policy decisions. As a result, the Commission viewed its role to consider and evaluate possible courses of action and to make recommendations that hopefully will form the basis for productive debate and discussion in the upcoming 1993 Legislative Session.

II. OVERVIEW OF THE MINNESOTA GAMBLING INDUSTRY.

Pari-mutuel betting on horse racing is only a tiny fraction of the nearly \$2.5 billion gambling industry in Minnesota. According to a recent study conducted by Minnesota Planning, the amount of money legally wagered in Minnesota has increased by more than ten fold since 1985. In 1991, approximately \$1.2 billion was wagered on lawful (charitable) gambling, approximately \$300 million was spent on lottery tickets, and about \$900 million was wagered at the Indian gaming casinos operating in Minnesota. By comparison, only \$87 million, or 3.5% of the total, was wagered at Canterbury Downs on horse racing.²



² Minnesota Planning, High Stakes: Gambling in Minnesota, 1992.

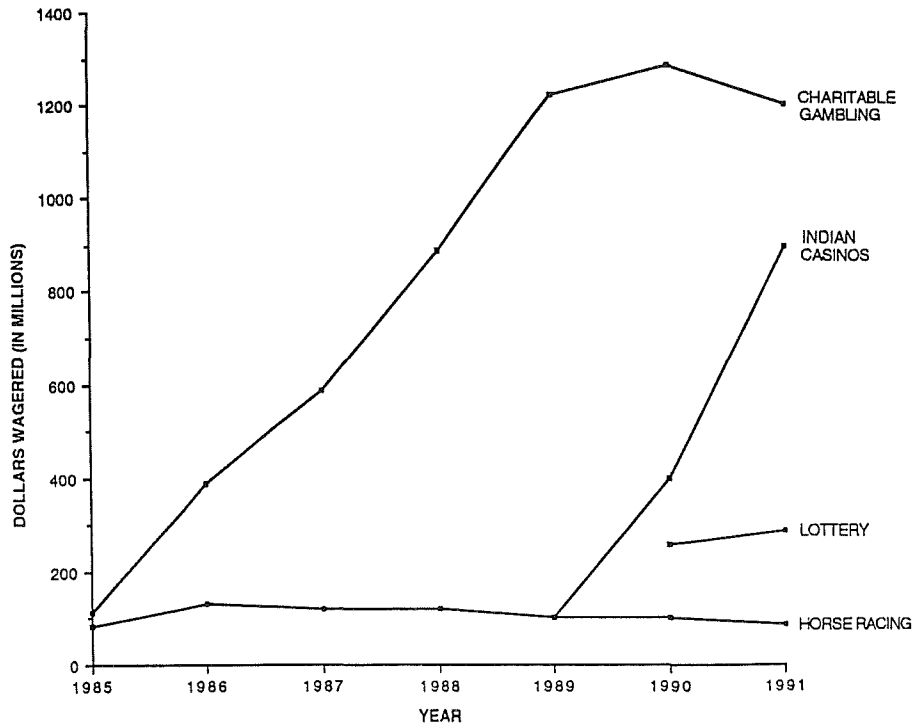
It has been suggested that competition from other forms of legalized gambling has caused or at least significantly contributed to the decline of horse racing. In 1985 when Canterbury Downs opened, approximately \$111.3 million was wagered on lawful gambling, primarily on bingo and pull-tabs. The lottery did not exist and Indian gaming was in the early stages of its development.

By 1989, the gambling terrain in Minnesota had been radically altered. Lawful gambling gross receipts topped \$1 billion for the first time in the state's history. As required by the Indian Gaming Regulatory Act passed by Congress in 1988, the state negotiated Tribal-State compacts with nine of the eleven Minnesota Indian tribes governing the operation of video gambling devices on Indian lands.³ Moreover, in response to a constitutional amendment adopted in November of 1988, the state legislature passed legislation authorizing the establishment of the Minnesota State Lottery.

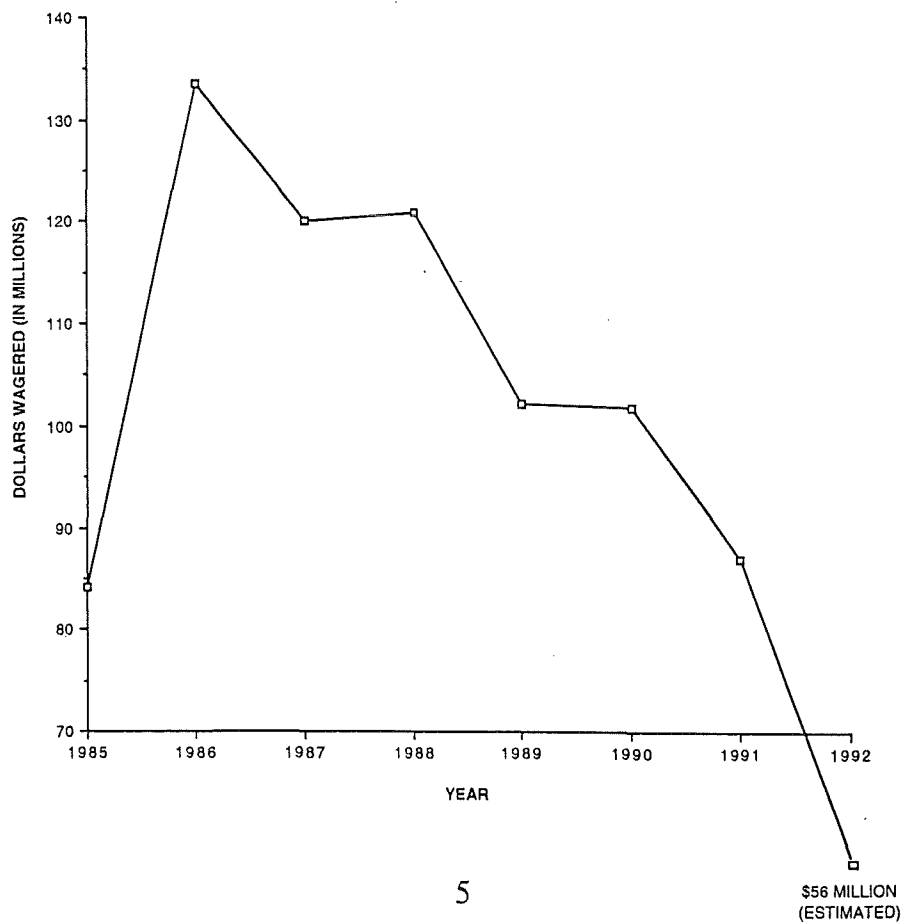
By 1990, an estimated \$2 billion was wagered in Minnesota. While the total dollars wagered on lawful gambling, Indian gambling and the lottery increased, or at least remained relatively stable, the total betting handle at Canterbury Downs began a downward spiral. In 1985, \$84.2 million was wagered at Canterbury Downs during 83 days of live racing. In 1986 the betting handle at Canterbury Downs increased to \$133 million, then leveled off in 1987 and 1988 at approximately \$120 million. By 1989 the total amount wagered at Canterbury Downs dropped to \$102.2 million. In 1990, the handle, consisting of both on-track and simulcast betting, reached only \$101 million. By 1991, the handle had plummeted to only \$87 million. The total handle for 1992 is expected to be approximately \$56 million, nearly 40% below the amounts wagered in 1991.

³ *Compacts governing video gambling were signed with the two remaining tribes in the spring of 1991. In addition, compacts governing blackjack were signed with all eleven Minnesota Indian tribes in May, 1991.*

THE GROWTH OF LEGALIZED GAMBLING IN MINNESOTA



THE DECLINE OF HORSE RACING IN MINNESOTA



These figures seem to indicate that horse racing has been adversely affected by the growth of other forms of gambling in this State. The effect, however, is perhaps due less to the existence of these other forms of gambling than to the ability of these other forms of gambling to operate on a more competitive basis. The lottery sells its product at approximately 3,800 retail locations around the state. Lawful gambling is sponsored by 1,750 organizations at 2,731 different bars and clubs. The eleven Minnesota Indian tribes operate 15 separate gaming casinos throughout Minnesota. Horse racing, on the other hand, is limited to a single facility and has little opportunity for expansion or development of competitive retail techniques. Pari-mutuel betting on horse racing cannot survive in its current form. If the industry is to survive at all, steps must be taken to allow the racing industry to more effectively market its product within the highly competitive Minnesota gambling industry.

III. THE MINNESOTA RACING INDUSTRY AND ITS IMPACT ON THE STATE'S ECONOMY.

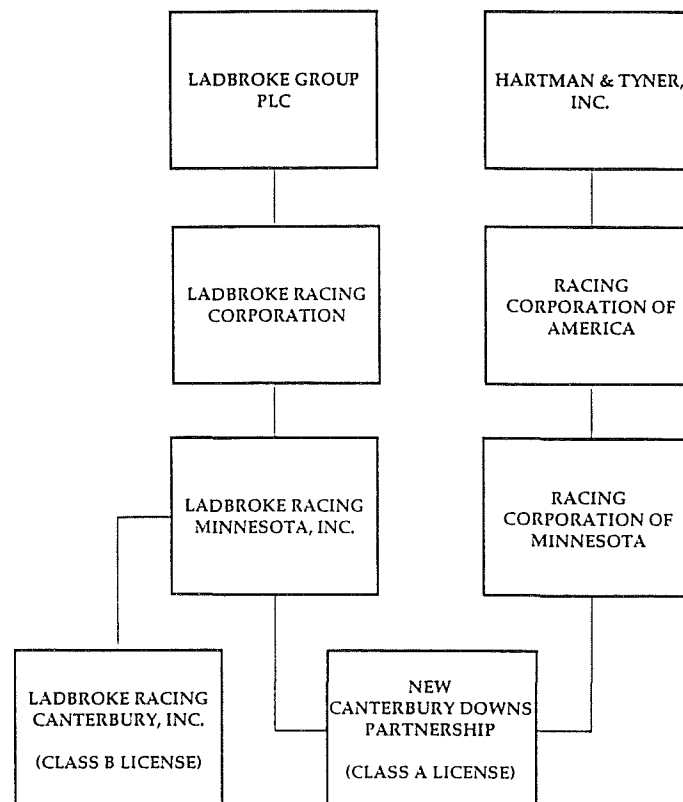
Before discussing the considerable impact the horse racing industry has on the state's economy, we believe it is necessary to clarify what appears to be a popular misconception. The State of Minnesota has never subsidized the operation of Canterbury Downs Racetrack or the horse racing industry. In fact, in the seven years since Canterbury Downs opened, the state has received nearly \$25 million in state sales and pari-mutuel taxes and unredeemed ticket proceeds.

Canterbury Downs was built in 1985 at an initial cost of about \$70 million. In 1986, the owners, Minnesota Racetrack, Inc., completed a \$10 million expansion bringing the total cost of the facility to about \$80 million. Canterbury Downs operated at a profit in 1985, but mounted successive losses in following years. By December 31, 1988, Minnesota Racetrack, Inc. had accumulated a deficit of \$37.6 million.

In April, 1990, Canterbury Downs was purchased by a partnership, New Canterbury Downs, comprised of two corporate entities, Racing Corporation of America, owned by Detroit

businessmen Herbert Tyner and Bernard Hartman, and Ladbroke Racing Minnesota, Inc., a subsidiary of Ladbroke Group PLC, a London-based corporation. Canterbury Downs was purchased for \$21 million by the partnership and Ladbroke Racing Canterbury, (LRC) another Ladbroke subsidiary was installed as the operator of the facility. The following chart outlines the ownership structure of Canterbury Downs.

**NEW CANTERBURY DOWNS
ORGANIZATION CHART AND OPERATING ENTITIES**



SOURCE: GRANT THORNTON, ACCOUNTANTS AND MANAGEMENT CONSULTANTS.

In 1990, LRC posted a \$1.1 million profit. However, in 1991 and 1992 LRC lost and is expected to lose \$4.3 million and \$6.1 million, respectively. In addition, LRC has overpaid purses by about \$2 million since it purchased Canterbury Downs in 1990. Given the substantial losses incurred by LRC, the corporation has publicly stated its desire to sell Canterbury Downs. In addition, it has not committed to any live racing at Canterbury Downs for 1993 and beyond.⁴

⁴ *Legal and economic circumstances may make it difficult for LRC not to offer at least a 78 day live race meet. The lease between LRC and New Canterbury Downs Partnership currently requires LRC to conduct pari-mutuel horse racing on no fewer than 78 days during each year unless New Canterbury Downs Partnership agrees otherwise.*

While Canterbury Downs may be the most visible component of the racing industry, it is certainly not the only one. The racing industry in Minnesota also involves an agricultural component, including a substantial breeding industry. In 1983 there were approximately 12 thoroughbred breeding farms in Minnesota. By 1990, the number of farms had grown to nearly 250. After just five years of racing, Minnesota was ranked 20th in the nation in the number of thoroughbred foals produced. In fact, that year Minnesota surpassed Nebraska, a state which has permitted horse racing for nearly fifty years, in the number of thoroughbred foals born.

In addition to the growth in thoroughbred farms, the existence of Canterbury Downs also stimulated the growth of other racing breeds. The number of quarterhorse farms increased from 80 to about 125 by 1990. The number of standardbred farms grew by as much as 20 after Canterbury Downs offered standardbred (harness) racing in 1986. On August 16, 1992, Canterbury Downs was the site of two world class Arabian races, giving Minnesota owners and breeders of Arabian horses the first opportunity to race in their home state.

According to an Economic Impact Study conducted by the Minnesota Racing Commission, nearly \$80 million was expended in 1990 by owners and breeders of race horses in Minnesota. These expenditures, confined primarily to the state's agribusiness sector, included expenditures for such items as feed (\$11,259,676), veterinary care (\$5,750,403), breeding stock and fees (\$16,630,908) and wages (\$24,970,725).⁵ The Department of Trade and Economic Development estimates that current annual expenditures by race horse owners and breeders is in the range of \$37.5 to \$45 million annually.⁶

The horse racing industry impacts the State's economy in other ways as well. In 1990, there were 1009 people employed on the front and backsides of Canterbury Downs.⁷ Those

5 Allmon, Carolyn and Pope, Mary, The Economic Impact of the Horse Racing and Breeding Industry on the State of Minnesota, April 1991.

6 The Department of Trade and Economic Development estimate is based on economic analysis performed by Scott Peterson and Abby McKenzie during the period of July 27, 1992 to August 10, 1992.

7 The figure of 1009 represents an average number of people employed during the entire year. There were actually substantially more people employed, but the vast majority were employed on a seasonal basis.

1009 people earned wages of approximately \$17 million. In 1991, the State received \$3,822,732 in pari-mutuel taxes, sales and use taxes, income tax withholding from Canterbury Downs employees, unredeemed tickets, license fees and fines. The City of Shakopee and Scott County received an additional \$2.6 million in real estate and admission taxes. Thus, nearly \$6.5 million was generated directly to state and local government from horse racing at Canterbury Downs. This figure does not include the approximately \$1.3 million in personal income taxes generated that year from the persons employed on the backside of the track or on the breeding farms located throughout the state.

Overall, the Department of Trade and Economic Development estimates that approximately 2,400 direct and indirect jobs are related to the Minnesota racing industry. These 2,400 jobs generate annual salaries and wages of approximately \$38.3 million with an increase in annual personal income estimated at \$43.5 million. In total, the Department of Trade and Economic Development estimates that horse racing attributes \$100 million to the state's economy.⁸ Notwithstanding this considerable economic impact, these figures represent racing at its lowest level since 1985. A healthy racing industry with a strong breeding component would further enhance the state's economy.

What effect will the closure of Canterbury Downs have on the state's economy? The state would stand to lose much of the \$3.8 million generated in taxes by Canterbury Downs. Scott County and the City of Shakopee would lose all of the admission taxes. The state would lose a considerable portion of the \$19.5 million expended annually by Ladbroke for operations and wages.⁹ In addition, at least a portion of the direct, and perhaps even indirect, employment attributable to the racing industry will be permanently lost to the state.¹⁰ The

⁸ By comparison, the 1990 Racing Commission Study revealed 7,657 direct and indirect jobs generating \$32 million in salaries and wages. The Racing Commission estimated that in 1990, the horse racing industry generated \$223 million into the state's economy.

⁹ This figure is a combination of the \$6.5 million expended in wages by Ladbroke and the estimated \$13 million industrial sector expenditures identified in the 1990 Racing Commission Study.

¹⁰ It is difficult to pinpoint the number of jobs likely to be lost to the state economy. The Racing Commission Study identified a state population loss of 1,687 people, but this was based on 1990 data and is significantly higher than what the Department of Trade and Economic Development would estimate today.

closure of Canterbury Downs would also result in the loss of a significant number of breeding farms in this state, further impacting the state's agricultural and agribusiness communities. Hence, while it is not possible to assess the total economic effect of the closure of Canterbury Downs, we are confident that the state's economy would suffer.

IV. OPTIONS CONSIDERED BY THE COMMISSION TO IMPROVE THE POSITION OF HORSE RACING IN MINNESOTA.

A number of options were presented to the Commission for improving the position of the horse racing industry in Minnesota. Some of these options were widely supported, some were not. In evaluating the various options discussed in this report we employed a series of fundamental principles.

(1) Although the Commission strongly believes that horse racing makes a significant contribution to the state's economy and is an industry worth preserving, our charter is not simply to promote the continuation of horse racing or the survival of Canterbury Downs at all costs and by whatever means.

(2) Canterbury Downs and the racing industry must continue to be self-supporting without any state subsidization.

(3) The backbone of the racing industry is live horse racing. In evaluating the various options, the preservation of live horse racing was of paramount concern.

(4) While the success of Canterbury Downs is critical to a healthy racing industry in this state, any efforts made to preserve horse racing must include the entire racing industry not just Canterbury Downs Racetrack.

(5) Horse racing is driven by the amounts wagered on the races, commonly called the "handle." A portion of the handle is kept by the racetrack to cover operating costs, a portion is devoted to purses and the rest is paid to the state in taxes and to supplement the state's Breeder's Fund. The continued viability of horse racing depends upon developing a mechanism to increase the total pari-mutuel handle.

The recommendations made at the close of this report are consistent with these core principles. We are, however, mindful that pari-mutuel betting on horse racing is only a small portion of the total gambling industry in this state and that political pressure may be exerted to alter our current menu of legalized gambling. We recognize that our recommendations may

need alteration should state policy makers elect to change the state's landscape of gambling opportunity.

A. Off-Track Betting.

The complexion of the gambling industry has changed dramatically in the past decade, both in Minnesota and nationally. Canterbury Downs is not the only racetrack to face significantly declining revenues. Nationally, on-track betting handles decreased substantially between 1988 and 1991 and many states have been forced to grapple with the same issues we face today. Christiansen/Cummings Associates, Inc., a consulting firm specializing in the commercial gambling industry, attributed the decline in horse racing to essentially two factors.¹¹ First, the dramatic increase in the number of "easy games" on the market, especially lotteries and slot machines, has drawn people away from horse racing. According to Christiansen/Cummings, "[m]ost people are intimidated by the complexities of handicapping. The racing industry, in our opinion, should devote much greater effort to making its product . . . intellectually more accessible to a broader segment of the population."¹²

Second, in conjunction with horse racing's relative "invisibility" compared with other gambling activities, Christiansen/Cummings concludes that horse racing has become relatively more "inconvenient" to patronize in the context of greater convenience for other activities. "By not moving in this regard, racing has fallen behind. . . [r]acing must reach out to its fans, and potential new fans, by adopting a more widespread distribution system in order to remain competitive." The way to accomplish these goals is through off-track betting. Of the 43 states that have some type of pari-mutuel horse racing, only eight states do not permit some form of satellite or off-track wagering.¹³

11 The conclusions of Christiansen/Cummings Associates, Inc. are taken from a published study the company conducted for the Ohio State Racing Commission on the status of the Ohio horse racing industry and the means for improving its position.

12 Christiansen/Cummings Associates, Inc. The Ohio Horse Racing Industry: Current Status and Means for Improving Its Position, Sept. 19, 1991.

13 Minnesota law currently permits wagering on races run in other states but televised only to Canterbury Downs for betting purposes.

Off-track betting has been used successfully in several states to stabilize or reverse declining pari-mutuel handles. Illinois, for example, introduced off-track betting in 1988. Each of Illinois' seven racetracks was given the authority to develop two off-track facilities. In 1991, the law was amended to permit the establishment of 14 more. Despite a slumping economy and competition from other forms of gambling (including riverboats in Iowa and Illinois) the total pari-mutuel handle in Illinois decreased by less than one percent between 1990 and 1991. While the on-track handle decreased by 8%, the off-track handle increased by nearly 21%. State revenue increased and revenue to cities and counties from the 11 operating off-track betting facilities increased by 20.65%, to \$7,162,710.

Illinois is not the only state that has used off-track betting to successfully combat declining pari-mutuel revenues. Arizona permitted off-track betting in 1987 by allowing each race track to establish one additional wagering facility. Initially, only Phoenix Greyhound Park took advantage of the law by sending a signal to another greyhound track located outside the Phoenix metropolitan area. In 1990, the law was amended to remove the cap on the number of permitted off-track betting outlets. The 1990 legislation paved the way for the development of a successful off-track betting system. Instead of developing teletheatre facilities as in Illinois, the race tracks in Arizona elected to place a minimal number of pari-mutuel betting terminals in a variety of sites, primarily sports bars and large country western bars.

Implementation of the off-track betting system had a positive impact on the state's pari-mutuel handle. Between calendar year 1990 and 1991, the on-track betting handle decreased by nearly 21%. However, in just three months of off-track betting in 1991, \$7,164,978 had been generated from off-track betting, reducing the total decrease in the pari-mutuel handle for 1991 to only 9.2%. While on-track betting handles continued to decline in 1992 (January-April), the money generated by off-track betting reached nearly \$14 million. Overall, the total betting handle for the 1991-1992 racing season increased by \$3.4 million over the 1990-1991 racing season. It is important to note that the Arizona off-track betting system has not yet reached maturity in the number of facilities or in the betting handle. In addition, Arizona permits off-

track betting only on races run in Arizona and therefore, only during authorized race meets. Permitting off-track betting on races run in other states and permitting off-track betting outside the nine-month Arizona racing season would increase the total betting handle even more significantly.

The Minnesota legislature legalized off-track betting in 1991. The bill, codified in Minn. Stat. § 240.01-25 (1991), permitted a holder of a Class B (race track operator's) license to build up to four "teletheatre" wagering facilities. The legislation, modelled after the laws in Illinois and Pennsylvania, contemplated the establishment of up-scale facilities offering wagering on races televised from Canterbury Downs and other tracks located throughout the country.¹⁴

The plan envisioned under the Minnesota off-track betting statute never became a reality because, in a decision filed July 31, 1992, the Minnesota Supreme Court struck down the statute as violating the 1982 amendment to the state constitution permitting "on-track" pari-mutuel betting on horse races.¹⁵ As a result, plans to implement off-track betting in Minnesota have been put on hold until such time as the legislature and citizens of Minnesota elect to amend the state constitution.

In our opinion, development of an off-track betting system is critical to the continued survival of horse racing in this state. Off-track betting expands the market area for horse racing and addresses the need to make pari-mutuel wagering more accessible to the public. Off-track betting also pumps substantial revenues into the total betting handle, generating significant amounts of money for purses and breeders awards. It is well-established in the racing industry that better purses attract better horses, and better horses attract more people. More people betting on the horses means an increased betting handle--the key to a successful and healthy racing industry in any state, including Minnesota.

¹⁴ Once the state legalized off-track betting, the eleven Indian tribes in Minnesota obtained the right to request compact negotiations to permit off-track betting on Indian lands in the state. However, the tribes agreed to limit their request to the same number of facilities permitted by state law.

¹⁵ *Rice v. Connolly, et al.*, ___ N.W.2d ___, No. C6-92-8 (Minn. July 31, 1992).

We are mindful of the constitutional prohibition to off-track betting, as well as the political controversy likely to be caused by the development of an off-track betting system. However, since the passage of the constitutional amendment and the original horse racing laws in Minnesota, the horse racing industry throughout the United States has changed drastically in the technology and manner of the presentation and marketing of its product. Previously non-existent forms of wagering that compete with the horse racing industry have grown rapidly in the past few years and are available in thousands of outlets throughout the state. Because of this competition, and due to the fact that the horse racing industry is effectively restrained from marketing its product under existing law, the establishment of off-track betting is essential. To allow off-track betting the legislature would have to propose and the citizens of Minnesota would have to adopt a constitutional amendment removing the "on-track" limitation that presently exists in the state constitution.¹⁶ However, in our view, development of an off-track betting system is the best hope for continued viability of the Minnesota horse racing industry.

B. Establishment Of A Regional Racing Circuit.

As mentioned previously, Canterbury Downs is not the only racetrack suffering from declining pari-mutuel revenues. Minnesota's neighbor to the south began its experiment in horse racing in 1989 with the opening of Prairie Meadows Racetrack near Des Moines. Live race meetings were held in 1989, 1990 and 1991, but the track was quickly overcome by debt and closed after the 1991 season.

In 1992, Prairie Meadows began simulcasting races from out-of-state and will generate perhaps as much as \$40 million in total betting handle by the end of the year.¹⁷ By the spring of 1993, a 65-90 day live meet may occur at Prairie Meadows, using the money generated from simulcasting to fund purses. While Prairie Meadows was without live racing in 1992, Iowa

¹⁶ The Governor need not sign and may not veto a bill proposing a constitutional amendment.

¹⁷ This projection is from Mick Lura, Administrator for the Iowa Racing and Gaming Commission. Lura's comments are from an article on Prairie Meadows that appeared in The Blood Horse on August 1, 1992.

horse breeders were racing horses at Canterbury Downs. In all, over 200 Iowa-bred horses raced at Canterbury Downs this summer.

Given the possibility that there may not be a live race meeting at Canterbury Downs in 1993, and that the Minnesota Constitution cannot be amended, if at all, until 1994, it is in our opinion, critical to begin looking for alternative ways to preserve live racing in our state. One proposal presented to us was the concept of exploring with Prairie Meadows the possibility of sharing or alternating live racing meets every year or every other year as the circumstances dictate.

While such a proposal is in need of refinement, it may be economically advantageous to both states to develop such a cooperative arrangement. It is conceivable that simulcasting at Canterbury Downs throughout 1993 and the winter of 1994 could generate a purse fund substantial enough to support a live race meeting in the summer of 1994. During 1993, Minnesota horsemen and women could race their horses at Prairie Meadows with those races simulcast to Minnesota for wagering purposes. Conversely, in 1994, a live race meeting could be held at Canterbury Downs with all races simulcast to Prairie Meadows for wagering purposes. By increasing the total betting handle through interstate simulcasting and by limiting live racing to alternate years, the Minnesota racing industry could be sustained at a minimal level until each track is financially capable of supporting a live race meeting each year. This concept is not necessarily limited to Iowa and could be expanded to include Kansas, North Dakota and Oklahoma.

The development of a regional racing circuit makes sense from an economic perspective. If no two tracks are running live race meetings at the same time, it is possible that a cooperative arrangement for the sharing of racing and regulatory staff, stewards, testing facilities and the like could be established. This could dramatically reduce the enormous costs associated with sponsoring a live race meeting and could enhance the economic viability of each participating track.

A regional racing circuit could be equally beneficial to the state's breeding industry. To be viable, the state's breeding industry needs a healthy Breeder's Fund to provide financial incentives to owners and breeders of Minnesota-bred horses and there must be a sufficient number of live racing days to give these horsemen and women the opportunity to earn the incentives. States like Minnesota, Iowa and Kansas, which have only one race track and no off-track betting outlets, have a difficult time sustaining healthy breeding industries. The race tracks in these states simply cannot generate sufficient betting handles and offer a sufficient number of live race days to remain profitable. A regional racing circuit, with no overlapping live racing days, could give Minnesota horsemen and women additional opportunities to earn breeder's awards as well as open new markets for Minnesota-bred horses. To further enhance the breeding industry, Minnesota Breeder's Fund monies would be used to fund breeder's awards and supplement purses for Minnesota horses racing at the participating regional tracks.¹⁸

Ak-Sar-Ben Racetrack in Omaha, Nebraska experimented with regional simulcasting this summer with great success. Ak-Sar-Ben simulcast its races to Prairie Meadows and to the Woodlands in Kansas City, Kansas. During the 77 day live race meet that concluded in early August, Ak-Sar-Ben saw a 12.7% increase in its total betting handle. This increase occurred notwithstanding a decline in on-track attendance of 5.3% and a decline in the on-track betting handle of 2%. What is significant about these figures is that at Prairie Meadows fans bet an average of \$39,771 per day on Ak-Sar-Ben races. At the Woodlands, \$76,890 per day was wagered. The addition of simulcasting increased the average daily handle at Ak-Sar-Ben from \$444,501 to \$728,568.

We recommend that the establishment of a regional racing circuit be explored. A regional circuit could include the establishment of cooperative arrangements for live racing programs as well as increased opportunities for simulcasting among the participating race

¹⁸ *Legislation would be required to allow the expenditure of Minnesota Breeder's Fund money on Minnesota-bred horses running in Iowa.*

tracks. In addition, we believe that the law should be amended to permit the expenditure of Breeder's Fund monies on races held in Iowa or any other midwestern racetrack for Minnesota-bred horses to attempt to sustain racing and breeding in Minnesota.

C. Purchase of Canterbury Downs By One Or More Indian Tribes.

Last June, it was proposed that a possible solution to the worsening financial situation at Canterbury Downs might be the purchase of the racetrack by one or more Minnesota Indian tribes. The Shakopee Mdewankanton Sioux Community, which owns and operates the Mystic Lake and Little Six Casinos just four miles from Canterbury Downs, was suggested as an interested and obvious buyer. Implicit in the proposal was the notion that the land on which Canterbury Downs is located would be designated as Indian land and thereby entitle the community to offer pari-mutuel betting on horse races in addition to the full range of gambling activity permitted on the Community's reservation by federal law and Tribal-State compact. Presumably, the proponents of the proposal believed that the availability of other forms of gambling at the racetrack would increase attendance as well as stimulate betting on the horse races. Or in the alternative, that at least a portion of the money generated from the other forms of gambling could be used to subsidize the purses or the betting handle.

The proposal received a considerable amount of attention by the media, prompting the Governor to direct this Commission to evaluate the efficacy of such a proposal. After considerable discussion, both within the Commission and with representatives from the Shakopee Sioux Community and the Minnesota Indian Gaming Association, we have concluded that such a proposal would be impractical.

First of all, and perhaps most importantly, the Shakopee Sioux Community has indicated publicly and to the Commission that it is not interested in purchasing Canterbury Downs at this time. However, while improbable, it is possible that another Indian tribe might express an interest in purchasing Canterbury Downs for the purpose of conducting casino gambling on the

premises. As a result, we elected to evaluate the proposal further in the event such a situation should occur.

In order for the proposal to become reality, Canterbury Downs would have to be purchased by an Indian tribe and the land would have to be designated as "Indian land" by the Secretary of the Interior. Generally, the Secretary of the Interior has significant authority to take land into trust for the benefit of Indian tribes. However, if the land is to be used for gaming purposes, the Secretary must adhere to certain specified procedures.¹⁹ The Secretary must determine, after consultation with the Indian tribe, appropriate state and local officials and officials of nearby Indian tribes, that gaming on the newly acquired land would be in the best interests of the Indian tribe and would not be detrimental to the surrounding community. After such a determination is made, the land may be taken into trust and used for gaming purposes only if the Governor concurs in the Secretary's determination.

The complexity of this process makes it unlikely that any such land acquisition could be completed in less than several months. Moreover, Secretary Lujan has made it quite clear that no lands will be taken into trust for gaming purposes unless all of the affected parties, including the state, the local community and other Indian tribes, support the new land acquisition. At least one potentially affected party, the Minnesota Indian Gaming Association, has voiced its opposition to any new land acquisitions for gaming purposes in Minnesota. Unless that position were to change, it is unlikely that the Secretary would exercise his authority to take Canterbury Downs into trust for gaming purposes. As a result, we believe that the purchase of Canterbury Downs by an Indian tribe for pari-mutuel wagering and other forms of gambling is not a proposal likely to succeed. Therefore, we do not recommend further consideration of the proposal.²⁰

¹⁹ These procedures are prescribed by the Indian Gaming Regulatory Act, 25 U.S.C. § 2701-2721 (1988) and by policy of the Department of the Interior.

²⁰ This is not to say, however, that we would discourage the sale of Canterbury Downs to any person or entity, including an Indian tribe, if the purchaser committed to operate the track solely for horse racing under Minnesota law and the authority of the Minnesota Racing Commission.

D. Installation of Video Gambling Devices at Canterbury Downs.

It has been suggested that the horse racing industry may benefit from the installation of video gambling devices at Canterbury Downs. This proposal also presumes increased attendance and betting as a result of the installation of the video devices.

Two states have implemented video gambling at racetracks, West Virginia in 1990 and Louisiana most recently this summer. In West Virginia, 150 video gambling devices were installed at Mountaineer Park Racetrack--the only location in the state allowed to operate such devices. The net revenue from the machines is divided among the track (70%), the West Virginia Lottery (20%) and the horsemen (10%). In 1991, the horsemen received approximately \$159,913 from the operation of the video devices.²¹ The West Virginia Racing Commission projects that a total of \$300,000 will be paid to the Horsemen's Association from the video gaming net revenues in 1992. By comparison, Mountaineer Park is expected to receive approximately \$1.9 million in video gambling net revenues in 1992.

Notwithstanding the installation of the video devices, during 1991, on-track attendance decreased, the on-track wagering handle decreased, and the total wagering handle decreased. In fact, the total wagering handle fell by approximately \$5 million between 1990 and 1991, even though Mountaineer Park opened an off-track betting facility generating slightly more than \$9 million into the handle from simulcasting. Thus, while the video gambling devices generate substantial amounts of money for Mountaineer Park, the horsemen, at least under the current agreement, do not appear to significantly benefit from the devices. In fact, if the West Virginia figures were applied to Minnesota, the projected 1992 video lottery purse supplements would not make up for the \$420,000 loss in available purse money from the decrease in the pari-mutuel betting handle.

In Louisiana, a video lottery system was implemented at the racetracks on June 1, 1992 as part of a state-wide video lottery network. Louisiana legalized video lottery in 1991, generally

²¹ The horsemen's share of the net revenue is subject to renegotiation after three years.

limiting non-racetrack facilities to three devices but allowing racetracks and off-track betting outlets to have an unlimited number of devices. During the month of July, the only month for which data is available, the video lottery system generated net revenues of \$2,319,000. Louisiana horsemen received \$384,563 for purses.

While the video lottery machines indicate some initial success, it is important to bear in mind that during the month of July 1,404 video devices were operated at the racetracks and off-track betting outlets, while about 1,800 were operating in other facilities around the state. By 1994, the Louisiana State Police expect 20,000 gambling devices to be in operation in the state. Of those 20,000, perhaps 10% will be located at racetracks and off-track betting facilities. The success of the video devices for the racing industry will be severely tested once these additional devices are in operation and once the State of Louisiana completes negotiations for three Tribal-State compacts and Governor Edwin Edwards's proposed New Orleans casino becomes operational.

In our view, the experiences of West Virginia and Louisiana are not sufficient to support the installation of video gambling devices at Canterbury Downs at this time. Even though Mountaineer Park is the only location in West Virginia permitted to operate video gambling devices, the total revenues generated for purses are not significant compared to the substantial decreases in the betting handle. While the amount of the net revenues devoted to purses may change with a newly negotiated contract, it is not clear that the horsemen will receive enough money to compensate them for the significant decreases in betting handle. Louisiana horsemen, by comparison, have seen greater benefits. However, we believe these initial benefits may be artificial in light of the anticipated increase in gambling activity in Louisiana in the up-coming months.

With more than 7,500 video gambling devices at Indian reservation casinos in Minnesota, it is questionable whether video gambling at Canterbury Downs would attract sufficient patrons to significantly impact the betting handle or the purse structure. Moreover, whether the legislature could pass legislation permitting video gambling devices at Canterbury Downs

without permitting the operation of at least a limited number of the devices by the Minnesota hospitality industry remains unknown. A state-wide "video lottery" system would likely exacerbate the decline of the pari-mutuel industry.

We agree with the assessment of the Minnesota Thoroughbred Association that it is simply too early to determine whether the use of video gambling devices at racetracks will help or hinder the racing industry. Therefore, we do not recommend further consideration of video gambling at Canterbury Downs at the present time.

E. State Purchase or Subsidization By Other Gambling Interests.

Several people suggested that because of the competitive effects of the other legal forms of gambling in this state, Canterbury Downs should be purchased and operated by the State Lottery or, in the alternative, the Lottery, lawful gambling organizations and the Minnesota Indian tribes should be required to subsidize the purses at the racetrack.

We agree with George Andersen, the State Lottery Director, that the purchase of Canterbury Downs by the State Lottery would, in addition to violating state law and perhaps the state constitution, be contrary to the best interests of the state. Therefore, we do not support such a proposal.

Nor do we support the required subsidization of purses by the other components of the state's gambling industry. Our goal is to attempt to create an environment where pari-mutuel betting on horse races can survive as a viable stand-alone enterprise in the competitive Minnesota market. In our view, required subsidization will have the effect of contributing to the competition and undermining any efforts to achieve successful co-existence. Subsidization may provide a short-term benefit, but it may also create serious long-term difficulties.

We are supportive, however, of any efforts by Canterbury Downs, the horse racing industry or the other legalized gambling interests to create partnerships beneficial to horse racing. For example, both the Lottery and Mystic Lake Casino have voluntarily supplemented purses for races held at Canterbury Downs. We hope the Lottery, Mystic Lake and others will see the benefits of working cooperatively with the racing industry to sponsor live horse racing and we encourage involvement with Canterbury Downs by the state's non-gambling business community.

F. Alternative Uses For Canterbury Downs Compatible With Horse Racing.

A number of ideas were brought to our attention regarding the conversion of Canterbury Downs from a race track to some other type of facility. In our view, the continued viability of the racing industry would be seriously jeopardized if Canterbury Downs is not maintained as a race track capable of operating live horse racing. We understand that it may be necessary for the owners of Canterbury Downs to consider alternative or concurrent uses for the facility to generate additional revenue to meet operating expenses. We are generally supportive of any alternative or concurrent use that is consistent with horse racing and which does not alter the fundamental structure of Canterbury Downs as a horse racing facility.

One proposal that makes considerable sense and does not require structural alteration, is the continued operation of simulcasting at Canterbury Downs through the winter of 1993 and beyond if no live racing occurs. Simulcasting generates revenue to LRC, to purses, and to the state in the form of pari-mutuel taxes. In addition, simulcasting helps to maintain a level of interest in horse racing necessary to ensure adequate support for continued live racing in this state. There are currently 1,500-2,000 regular simulcasting fans at Canterbury Downs. Many of these individuals have contacted the Racing Commission to urge the continuation of simulcasting throughout the winter of 1993.

V. RECOMMENDATIONS

Off-track betting is critical to the continued survival of the horse racing industry in this state. We recognize, however, that implementation of any off-track betting system will require that the legislature pass and the citizens of Minnesota adopt an amendment removing the words "on-track" from Article X, section 8 of the Minnesota Constitution. Therefore:

we recommend that the Legislature, with the Governor's support, place a constitutional amendment on the 1994 general election ballot removing the words "on-track" from the Minnesota Constitution.

We recognize that the adoption of a constitutional amendment and passage of any necessary enabling legislation is, at a minimum, more than two years away. We believe that in the meantime it is critical to explore alternative options for maintaining live horse racing in this state. The Racing Commission, with its expertise in the horse racing industry, is perhaps best suited to evaluate and develop those options with the greatest likelihood of success. Therefore:

we recommend that the Racing Commission be encouraged to take all reasonable steps to preserve live horse racing in Minnesota, including but not limited to:

- (1) pursuing the development of a cooperative arrangement with one or more midwestern racetracks to alternate race meetings and implement simulcasting systems among the participating race tracks;**
- (2) exploring alternative ways of supplementing purses, including the development of voluntary partnerships between Canterbury Downs, the Minnesota business community and other gambling and non-gambling interests; and**
- (3) encouraging continued simulcasting at Canterbury Downs to generate purse monies and contribute to the economic viability of Canterbury Downs as a live racing facility.**

We believe that these recommendations must be addressed with some urgency. Therefore, we propose that the Racing Commission be encouraged to establish an Advisory Committee comprised of interested and knowledgeable individuals willing to pursue and implement the recommendations contained in this report.

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EXECUTIVE ORDER 92-6
PROVIDING FOR THE GOVERNOR'S COMMISSION
ON CANTERBURY DOWNS

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the parimutuel horse racing industry makes important contributions to the Minnesota economy; and

WHEREAS, Canterbury Downs Race Track is a facility vital to the horse race industry in Minnesota; and

WHEREAS, the track and horse race industry is responsible for several thousand jobs in Minnesota; and

WHEREAS, Canterbury Downs is currently confronted with serious financial problems and is searching for alternatives to improve its economic viability;

NOW, THEREFORE, I hereby order that:


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1. The Governor's Commission on Canterbury Downs be established. The Commission shall review and make recommendations to the Governor relating to the current economic condition of horse racing in Minnesota, its future viability as a stand-alone business and the economic and social impact on the State, and various communities of the State, in the event of the economic failure of Canterbury Downs Race Track.
2. The Commission shall review and make recommendations relating to the social and economic impact on the State and various communities of the State of a business relationship between Canterbury Downs Race Track and a Minnesota Indian tribe including but not limited to the purchase and operation of the track by a Minnesota Indian tribe.
3. The Commission shall consist of the following individuals:
 - Chairman: Richard L. Pemberton, Chairman of the Minnesota Racing Commission
 - Harry W. Baltzer, Executive Director of the Minnesota Gambling Control Board
 - Cynthia S. Piper, member at large of the Minnesota Racing Commission
 - Henry M. Buffalo Jr., a representative of the Minnesota Indian Gaming Association
 - David A. Leckey, Deputy Commissioner of Trade and Economic Development
 - Representative Wayne Simoneau, a member of the Minnesota House

- Senator Patrick D. McGowan, a member of the Minnesota Senate
 - Richard "Pinky" McNamara, a member of the business community
 - David L. Mona, a member of the business community
 - Randy Sampson, a member of the business community
 - Mary Magnuson, Office of the Attorney General, Reporter
4. The order and proceedings of the Commission shall at all times be under the direction of the Commission's Chairman who shall report the Commission findings and recommendations to the Governor by September 15, 1992.

Pursuant to Minnesota Statutes 1990, Section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1990, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this third day of June, 1992.



ARNE H. CARLSON
Governor

Filed According to Law:


JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUN 3 1992


Secretary of State