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**STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL**

ANNUAL REPORT REQUIRED BY

**Minnesota Statutes Section 8.15,
Subdivision 4 (2002)**

Fiscal Year 2003

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INTRODUCTION

This report is intended to fulfill the requirements of Minnesota Statutes Section 8.15, Subdivision 4, for Fiscal Year 2003 (FY 03).

The Attorney General's Office (AGO) is organized into five sections: Government Operations, Government Regulation, Government Services, Public Protection and Solicitor General. This report contains brief summaries of the services provided to state agencies and other AGO clients by these sections.

GOVERNMENT OPERATIONS SECTION

EDUCATION DIVISION

The Education Division represents the state's complex and varied educational system:

Minnesota State Colleges and Universities (MnSCU)

Each MnSCU college and university is assigned an attorney as a single point of contact for legal advice, legal input on policy matters, and litigation. The division develops a program of preventive law including training programs and materials to meet campus needs.

Minnesota Department of Education (MDE) (formerly Children, Families and Learning)

Legal services to MDE are coordinated through a general counsel. The division provides legal advice for MDE's many programs, such as the federal "No Child Left Behind Act," grants and loans for school construction, charter schools, graduation standards and testing, distance learning, and library development. The division also defends the department in its investigation of and decision-making in school-based maltreatment of minors' cases. The division provides training to managers and supervisors on a variety of legal issues.

Higher Education Services Office (HESO)

HESO administers federal and state higher education programs. The Education Division provides a full range of legal services for HESO, which includes providing advice on licensing private trade schools and student and private school data practices issues. Attorneys also work with HESO in negotiating contracts for MnLINK, a statewide, computerized library system involving public and private libraries throughout the state.

The Perpich Center for Arts Education (PCAE)

PCAE, the Arts High School, operates as a separate public school with similar responsibilities. PCAE is also a residential school. The division advises PCAE on student discipline, grade appeals, admissions and residency requirements, data privacy and contracts.

Examples of matters handled by the division are:

MnSCU

- *Governance Issues.* Provided advice to the colleges and universities on issues such as data practices, open meeting law, and delegation of authority.
- *Litigation.* Successfully defended a state university in a lawsuit brought by a faculty member challenging the conclusions of an audit, and claiming defamation, due process violations, age discrimination and intentional infliction of emotional distress. Successfully defended a community college in a lawsuit brought by a nursing student challenging the remediation requirements of the nursing program; currently defending a college in two similar lawsuits. Defended a state university and successfully negotiated a settlement of the lawsuit brought by a contractor claiming additional payments for reconstruction following a fire. Successfully negotiated a resolution of an adverse audit demand by the U.S. Department of Education ("USDOE"). The settlement saved MnSCU \$2.7 million in repayment and penalties.
- *Discrimination and Harassment Issues.* Worked with the system office and the campuses to develop and implement policies to comply with state and federal anti-discrimination laws. Trained campus investigators and decision-makers who process internal discrimination and harassment complaints. Defended charges of discrimination filed with the state Human Rights Department and the federal Equal Employment Opportunity Commission. AGO successfully negotiated settlements of major pay equity lawsuits against the state universities.
- *Promoting Campus Safety and Integrity.* Successfully represented MnSCU colleges and universities in a variety of student disciplinary matters to promote campus safety and integrity. The reasons for disciplinary action included harassment, plagiarism, and threats.
- *Privacy.* Advised MnSCU campuses on the privacy and data security requirements of the federal Family Education Rights and Privacy Act and the state Data Practices Act.
- *Technology & Higher Education.* Provided MnSCU legal advice on intellectual property issues, the Internet, and data practices; negotiated complex, unique agreements and partnerships, and provided assistance in drafting systems policies including the system's Computer Use Policy - Guidance for campus policies on the use of computers (Internet, e-mail, bulletin boards) by students, faculty and staff.

Minnesota Department of Education

- *Charter Schools.* Worked with the department to address issues related to charter schools including management accountability, lease aid, real property ownership and state regulation/deregulation.
- *Litigation.* Successfully defended MDE and several employees in a federal court action raising numerous constitutional claims alleging an improper investigation under the Maltreatment of Minors Act ("MOMA"). Successfully defended MDE in a lawsuit challenging the department's closure of an outstate office. Defending MDE in the Court of Appeals in an action challenging the department's award of compensatory education services to a special education student who graduated from high school.
- *Special Education.* Successfully defended MDE in several lawsuits challenging oversight of school districts' implementation of federally mandated special education services. One case is pending before the Eighth Circuit Court of Appeals.
- *Maltreatment of Minor in Schools.* Successfully defended several MDE maltreatment determinations.
- *Graduation Standards.* Provided legal advice to MDE with respect to the implementation of the federal "No Child Left Behind (NCLB) Act," including developing an appeal process for designating schools as failing to meet "Annual Yearly Progress" requirements. Advised MDE on testing issues related to graduation standards and on the issues regarding the transition from the Profile of Learning.
- *Desegregation Issues.* Assisted MDE in implementing settlement of the public school desegregation litigation in the Twin Cities' metropolitan area and application of the department's new desegregation rules.

Other Litigation

- Successfully defended the Department of Public Safety in a class action lawsuit challenging the fee charged for parking permits issued to handicapped individuals.

HUMAN RIGHTS/LABOR DIVISION

The Human Rights/Labor Division represents the Departments of Human Rights, Labor and Industry, Economic Security, and Veteran's Affairs as well as the Bureau of Mediation Services, the Ombudsman for Corrections, Public Employee Retirement Association, Minnesota

State Retirement System, Teacher's Retirement Association, Veteran's Home Board, and the Insurance Division of the Department of Employee Relations.

The division's major Human Rights activity is the handling of cases forwarded by the department following a determination that there is reason to believe illegal discriminatory conduct has occurred. The division participates in mediation regarding these matters, and seeks to obtain appropriate monetary and non-monetary relief. Division attorneys resolved 93 such cases in FY 03. The division's enforcement efforts resulted in Minnesota citizens receiving compensatory and injunctive relief for illegal discriminatory treatment. For example, after an initial refusal by a developer to sell three lots to a family that intended to use one lot for an accessible home for a disabled family member and other disabled individuals, the family was allowed to purchase the homes at the original agreed upon price. In FY 03, the division obtained compensatory relief for Minnesota citizens in the amount of approximately \$1,460,000.00.

In addition, the division work included:

- Litigation and appellate work to preserve the resources of state funds and state pension funds for injured workers and disabled public employees.
- Mediation and litigation to enforce occupational safety and health standards, including cases regarding workplace fatalities. For example, after an employee died and four others were seriously injured following an explosion at a feed processing plant, division lawyers assisted in the negotiating an agreement that resulted in a \$33,000 fine and the correction of inadequate written safety instructions. In FY 03, the office resolved 39 OSHA cases and obtained \$117,000.00 in OSHA fines.
- Participation in bankruptcy proceedings in order to protect state's interest in collecting reemployment benefits overpayments. In the past fiscal year, Attorney General's Office intervention prevented the discharge in bankruptcy of approximately \$195,549.00 of improperly received benefits.
- Advised each of the three pension funds regarding IRS tax compliance issues.

The Civil Litigation and Public Utilities Division also provides a broad range of legal services to the Department of Corrections and all state correctional facilities. These legal services include a substantial amount of litigation and a variety of client advice matters. The division has successfully handled a high volume of inmate lawsuits. Significant cases involved the defense of the Correction Department's authority to prohibit inmates from harassing citizens who request no contact from those inmates; the requirement that certain inmates register with law enforcement officials as predatory offenders upon their release from prison; and petitioning courts to require inmates whose blood has come into contact with corrections' staff to submit to blood tests.

The division's commercial litigation and debt collection activities included:

- Obtained court judgments for the state, based on debts owed to various state agencies for overpayments, fees, loans, breach of contract, employee theft, property damage, and fines;
- Protected the state's rights as a creditor in bankruptcies, receiverships, liquidations, and other such actions;
- Located and recovered assets of debtors attempting to fraudulently transfer assets;
- Trained and worked with state personnel on collection, financial, and bankruptcy matters, including proposing modifications to the language in state contracts; and
- Provided legal advice concerning legislation to improve collection activities by state agencies.

The division also provided legal advice to representatives with the Minnesota Collection Enterprise ("MCE"), a division of the Minnesota Department of Revenue. MCE receives claims from schools, state agencies, and district courts.

Over the past fiscal year, the division's collection work resulted in recoveries and judgments of more than \$6.8 million.

HUMAN SERVICES DIVISION

The Human Services Division provides litigation counsel and comprehensive legal services to the Minnesota Department of Human Services (DHS). The following describes some of the major areas in which the division provided legal services to DHS.

Public Assistance Programs. Division attorneys advised DHS on the implementation of the Minnesota Family Investment Program (MFIP), General Assistance Program (GA), Minnesota Supplemental Assistance Program (MSA), Food Stamp Program, and Child Support Enforcement Program. The division worked with DHS to address issues raised by advocacy groups, anticipated possible litigation, and resolved potential claims.

Child Support. Division attorneys provide litigation counsel and legal advice for DHS's Child Support Division. Attorneys assist DHS in implementing federal and state laws and advise the agency on issues raised by advocacy groups. During FY 03, for example, the division provided assistance on some of the following specific matters:

- assisted counties in defending against several lawsuits challenging the constitutionality of Minnesota child support statutes.

- assisted in improving efforts to collect support from non-custodial parents. During FY 01, child support collections increased six percent to \$519 million, and during FY 02, another six percent to \$553 million.

Licensing. Division attorneys provide advice and litigation counsel to the Licensing Division of DHS in maltreatment, disqualification, and licensing enforcement actions. Division attorneys represent the agency in administrative forums and in district and appellate courts. During FY 03, division attorneys provided assistance in the following areas:

- helped DHS identify where existing licensing laws and procedures could be clarified or improved, and provided training to state and county agency staff.
- handled a large volume of licensing litigation, including 71 new cases.

Health Care. Division attorneys provide litigation counsel and client advice to DHS on a range of health care issues and services, including the Minnesota Medical Assistance and MinnesotaCare programs, and continuing care programs for the elderly and persons with disabilities. Division attorneys also assist in recovery of payments for healthcare services from responsible parties. Several examples of legal service provided in FY 03 are:

- *ARRM/ARC:* Represented DHS in two complex federal court litigation matters concerning statewide “re-basing” of counties’ budgets of waived services for persons with mental retardation and related conditions (“MR/RC”). These two potential class action lawsuits seek to enjoin the agency’s system for providing county funding;
- *Martin v. Rochester; Minnesota v. Martin:* Division attorneys litigated the constitutionality of DHS’s Medical Assistance tort recovery statutes before the Minnesota Court of Appeals and Minnesota Supreme Court. In FY 02-03 certiorari review of the Minnesota Supreme Court’s decision was sought from the United States Supreme Court. On June 27, 2003, the Court denied the state’s Petition for Certiorari;
- *Intervention cases:* As a result of the Minnesota Supreme Court’s decision in *Martin*, division attorneys have intervened in hundreds of tort recovery cases in district courts throughout the state. As of July 2002, DHS determined that intervention was appropriate in approximately 663 pending tort recovery cases;
- *METO:* Division attorneys finalized litigation concerning decertification of Minnesota Extended Treatment Options, a DHS intermediate care facility for the mentally retarded. At stake was the potential loss of federal funding by the Centers for Medicare and Medicaid Services;
- *PA appeals:* Division attorneys defended DHS and assisted county attorneys in defending hundreds of public assistance appeals related to eligibility for Minnesota’s health care programs;

- *Estate collections:* Division attorneys assisted in the collection of \$632,015.71 for payment of Medical Assistance services.

Child Welfare. Division attorneys have provided necessary legal advice to DHS to develop systems that will do a better job of protecting children.

Mental Health. Division attorneys provide legal advice and representation to DHS under the Civil Commitment and Treatment Act. Division attorneys defended numerous lawsuits and other court actions brought against DHS regarding management of the state regional treatment center system and the conditions of confinement at DHS facilities. Division attorneys provided legal advice to DHS in its efforts to provide treatment to mentally ill and developmentally disabled individuals in community-based settings. Finally, division attorneys routinely assisted county attorneys in pursuing orders in district court for neuroleptic medications to be given to patients residing in DHS facilities.

- *Crimmins v. FFRTC.* Division attorneys defended DHS and state officials in a federal lawsuit concerning adequacy of treatment at the Fergus Falls Regional Treatment Center ("FFRTC"). Division attorneys obtained dismissal of large portions of the plaintiffs' complaint, and later successfully negotiated a full dismissal without payment of any settlement dollars, costs, or attorneys' fees. The plaintiffs wanted changes in services at FFRTC that would likely have required the expenditure of millions of dollars.
- Division attorneys defended against approximately 36 petitions by patients requesting release or transfer from DHS facilities before they are able to safely return to the public.

PUBLIC FINANCE/OPINIONS/SMALL BOARDS DIVISION

The Public Finance/Opinions Division represents the Departments of Administration, Finance, and Employment and Economic Development, as well as the Housing Finance Agency, Iron Range Resources and Rehabilitation Agency, State Board of Investment, State Auditor, Legislative Auditor, Secretary of State, and many other smaller boards, agencies and commissions. The division also represents the Minnesota State Colleges and Universities System (MnSCU) and other state agencies in contract, lease and other transactional matters. The division's work during FY 03 included:

- Advised the Governor, Secretary of State, the State Canvassing Board, and other election officials in connection with numerous election-related issues, including several arising from the death of Senator Paul Wellstone shortly before the general election;

- Represented the Governor and/or Secretary of State in nine court cases related to the 2002 election. Eight were in the state Supreme Court and all were heard on very short notice;
- Advised and represented the Campaign Finance and Public Disclosure Board regarding enforcement of the Minnesota campaign contribution, finance and lobbyist registration laws;
- Provided advice to the Governor's Office with respect to various questions concerning veto procedures and unallotments;
- Facilitated bond issuance by providing legal consultation to involved agencies for over \$1.3 billion in general obligation and revenue bonds;
- Provided extensive advice to state clients on intellectual property, data practices, open meeting law, procurement and other issues related to state government operations;
- Advised the Housing Finance Agency regarding numerous loans to preserve low income housing, its first variable rate bond transaction with an interest rate swap and defended it in a lawsuit brought by a low-income housing owner in which the Eighth Circuit Court of Appeals held the State's tenants notice requirement was preempted;
- Advised and represented the Secretary of State in various corporate and trade name registration matters;
- Advised the IRRRA regarding the Quarry Golf Course construction project, Giants Ridge land and facility development issues, mining company bankruptcies and "work-out" plans, mining technology assistance projects, equity investment projects, project facility closings and financial restructurings and a variety of economic development projects in the northeast region;
- Successfully defended enforcement of the State Electrical Act ratio for supervision of unlicensed electrical workers against an ERISA preemption challenge in the Eighth Circuit Court of Appeals;
- Represented the Department of Finance in a sale and leaseback transaction for two office buildings, which involved two St. Paul Port Authority revenue bond issues totaling \$54.8 million;
- Advised state agencies in connection with implementation of various communications and technology programs including MN Link, iSeek, CriMNet and MetNet;

- Advised the Minnesota Court Administrator in connection with several multi-million dollar software contracts;
- Advised the Commissioners of Administration and Transportation regarding contracts and barter arrangements to complete fiber network facilities in state rights-of-way;
- Assisted state agencies in drafting and review of lease agreements, licensing agreements and other contracts;
- Responded to 44 requests for formal legal opinions and myriad requests for informal legal guidance from local governments;
- Reviewed and resolved one tax increment finance enforcement matter referred by the Office of the State Auditor and engaged in unsuccessful alternative dispute resolution with respect to another;
- Advised numerous small boards and agencies, including the boards of Accountancy, Architecture, Barbers, Boxing, Electricity, Crime Victims, Peace Officers Standards and Training, Teaching, School Administrators and the Commissioner of Children, Families and Learning, and represented those boards in over 27 contested matters;
- Advised and represented the Office of Strategic and Long Range Planning in connection with several municipal boundary adjustment matters, and on issues arising from transfer of the boundary adjustment function to the Department of Administration;
- Advised and represented the Building Codes Division of the Department of Administration on a variety of enforcement matters, including issues relating to manufactured (mobile) homes; defended the division in a lawsuit in which the Court of Appeals held the division had no duty to reject plans submitted for building permits and its refusal to issue a permit if the plans were not certified as required by the law's licensing architects and engineers;
- Defended the state in a variety of litigation including a third party worker injury action, Torrens assurance fund claims, and the right to erect billboards on municipally-owned property reserved for public use;
- Advised the Indian Affairs Council on matters pertaining to the Indian Business Loan Program including its transfer to the Department of Employment and Economic Development.

TELECOMMUNICATIONS AND ENERGY DIVISION

The Telecommunications and Energy Division represents the Telecommunications and Energy Divisions of the Minnesota Department of Commerce (Department), including its Weights and Measures Division, before the Minnesota Public Utilities Commission (Commission), Office of Administrative Hearings, federal agencies and state and federal courts. In FY 03, the division provided advice and representation to the Department on many matters, such as:

Telecommunications

- Wholesale Service Quality Standards. Represented the Department in its efforts to develop a performance assurance plan to ensure Qwest's provision of adequate and reliable local wholesale service.
- Investigation of Anti-Competitive Conduct. Participated in investigations and trials regarding complaints against Qwest for anti-competitive conduct.
- Petition by Qwest to Obtain Long Distance Authority. Attended several OAH trial proceedings to determine if Qwest met prerequisites for long distance authority pursuant to the 1996 Telecommunications Act. The FCC recently granted Qwest's long distance request. In a separate proceeding, worked with a coalition of regulatory agencies and telecommunications companies to develop a plan to ensure Qwest's nondiscriminatory provision of local wholesale services.
- Qwest/US WEST Merger Compliance. Advised the Department in enforcing the terms of the Qwest/US WEST merger including service quality commitments made in relation to Alternative Form of Regulation program.
- Access Charge Reform: Provided legal advice to the Department's in connection with its pursuit of reform of compensation between carriers for call origination and terminations.
- Interconnection and Costs. Provided advice to the Department in its evaluation of complaints against Qwest on interconnection issues, such as improper billing for interconnection costs and participated in an administrative trial to develop costs of the wholesale network elements Qwest must provide to competitors.
- Universal Service. Continued to provide assistance to the Department for determining a cost model for universal service funding.
- Participated in the Department Investigation into Qwest's Unfiled and Secret Agreements. Commission ruling resulted in a \$26 million ruling against Qwest for business practices with competitors which is now being reviewed by federal court.

- Data Practices Lawsuit. Continued litigation regarding Qwest lawsuit that alleged violation of the Minnesota Data Practices Act by the Department.
- Unauthorized Provision of Telephone Service: Represented the Department against several companies for providing unauthorized local telephone service. Failure to comply with mandates such as access to 911 services is principal concern of the Department.
- Wireless Carriers: Two trials resulted in Commission approval of wireless firms' designations as "eligible telecommunications carriers" for purposes of qualifying for federal universal service subsidies.

Energy and Weights and Measures

- Merger Enforcement/Monitoring: Represented the Department in its efforts to monitor and enforce terms of the NSP merger with New Century, now known as Xcel Energy.
- Electric Transmission Line Construction: Xcel's request to build four transmission lines in southwestern Minnesota received conditional approval while Great River Energy and Wright-Hennepin Electrical Cooperative's request to build a transmission line in Plymouth and Maple Grove is still pending.
- Electric Transmission Line Operation/Control: Advised the Department with respect to requests by Xcel and Interstate Power to transfer control of transmission lines to a new entity, TRANSLink.
- Other New Construction: The City of Hutchinson's request to build an 89-mile natural gas pipeline was approved as was a natural gas-fired peaking plant proposed by Faribault Energy Park.
- Rate Cases: The Commission approved rate increases for two gas utilities owned by Aquila, Peoples (\$5.5 million) and NMU (\$697,000), down from the approximately \$9 million initial request, while a Great Plains Natural Gas Company rate increase of \$1.1 million, down from \$1.6 million, awaits Commission decision. Dakota Electric has a pending request to hike rates by \$6 million and a \$5 million rate hike requested by Interstate Power will be heard in November, 2003.
- Emission Reduction Project: Xcel Energy wants to convert to natural gas several coal-fired generating plants located in the Twin Cities as well as to receive approximately \$1 billion in costs for doing so.
- Investigation of Aquila Cost Allocation Practices: Assisted Department in settling matter involving allegations that company attributed costs to regulated ratepayers that should have been paid for by non-regulated services customers.

- Statutory Wind Incentives: Assisted in Department's implementation of incentives encouraging development of wind generation facilities.
- Encumbering Regulated Natural Gas Assets: Assisted the Department in evaluating Aquila request for hundreds of millions of dollars in financing through encumbering the company's regulated Minnesota assets. Matter to be decided by the Commission in fall, 2003.
- Natural Gas Fixed Bill Proposals: Advised the Department in its evaluation of proposals by several utilities for voluntary billing programs to allow ratepayers an opportunity for a fixed energy charge, avoiding unanticipated swings in natural gas bills.
- Conservation Improvement Plan (CIP) matters: Assisted in analyzing programs designed to meet statutorily-required utility conservation spending.
- State jurisdiction on Indian lands: Division attorneys assisted Weights and Measures Division regarding questions concerning the inspection of private gasoline retailers located on Indian lands.

TRANSPORTATION DIVISION

The Transportation Division provides legal services to its primary client, the Minnesota Department of Transportation (Mn/DOT). A large part of the division's work involves eminent domain litigation.

The Transportation Division advises both Mn/DOT and other state agencies involved in construction projects and represents the state when contractors, subcontractors, or third parties sue the state on construction-related matters. The division also protects taxpayers by filing claims against entities that perform defective work or otherwise fail to comply with contract requirements.

The division represents all non-regulatory state agencies in matters involving compliance with state and federal environmental requirements and when they are involved in environmental litigation. The division assists state agencies in real estate transactions involving contaminated properties, advises client agencies on the legal ramifications of proposed activities and development projects, and evaluates and attempts to resolve claims before litigation arises.

In FY 03 the division's activities included:

- Litigation related to eminent domain actions and appeals. Hundreds of properties are acquired for roadways and other transportation projects in legal actions. The division also defends Mn/DOT against claims that its projects have resulted in inverse takings and provides legal assistance in voluntary sales of real estate for transportation projects.

- Provided the Commissioner of Transportation and staff with general counsel legal assistance.
- Represented Mn/DOT in its statutory prevailing wage enforcement responsibilities, recovering unpaid wages for contractors' employees on MnDOT projects.
- Represented Mn/DOT in highway advertising regulatory enforcement proceedings before the Commissioner of Transportation. Also, advised the Commissioner in adjudicating contested case decisions in railroad crossings and similar rail regulatory matters.
- Advised Mn/DOT in its programs and offices such as Equal Employment Opportunity, Aeronautics, Railroads and Waterways, Project Development, State Aid, Research and Investment Management, and Office of Motor Carrier Services.
- Successfully defended and enforced Mn/DOT's authority to regulate use and occupation of highway right-of-way by third parties including utilities.
- Assisted Mn/DOT in implementing public-private and public-public partnerships.
- Represented the Minnesota National Guard in its legal matters, which have included data practices litigation, contract review, and prevailing-wage enforcement.

GOVERNMENT REGULATION SECTION

AGRICULTURE AND NATURAL RESOURCES DIVISION

The Agriculture and Natural Resources Division provides general legal services, advice and litigation support to the Department of Natural Resources (DNR); Department of Agriculture (MDA); Board of Water and Soil Resources (BWSR); Board of Animal Health; Minnesota Historical Society (MHS); State Archeologist; and the Indian Affairs Council. The division also provides real estate expertise to the Minnesota State Colleges and Universities (MnSCU) and the State Fair Board and provides Indian law expertise to its clients and local governments.

Department of Natural Resources

Ecological Services. In FY 03, the division provided ongoing advice to DNR Ecological Services in connection with the aquatic plant management permit program and the endangered and threatened species program.

Enforcement. In FY 03, the division provided general advice to DNR Enforcement regarding numerous matters including the Wetlands Conservation Act; the "Level II" law enforcement program, recent case law addressing Fourth Amendment issues with respect to DNR law enforcement activity, tribal sovereignty and jurisdiction, vehicle and equipment confiscations and rulemaking.

Fish. During FY 03, the division provided advice in connection with the 1837 and 1854 Treaties' harvest programs. The division advised DNR on agreements for settling damages to fish caused by hydroelectric plant operations. The division also negotiated and drafted conservation easements and provided legal advice in connection with the aquatic farming regulatory program.

Forestry. During FY 03, the division assisted DNR Forestry with six separate fire fighting cost recovery cases (pursuant to Minn. Stat. § 88.75) including collection of costs related to the Carlos Avery fire where DNR recovered from FEMA approximately 95 percent of its \$1.5 million in costs. The division also advised the department regarding matters of timber harvest, permits, forestry roads and access issues, rules regulating use of motorized recreational vehicles in state forests and on issues regarding trespass and encroachments on state forest land.

Indian Law Issues. During FY 03, the division provided legal services to DNR in a wide variety of Indian law areas. These included ongoing resource management and harvest issues under the 1837 Treaty (Mille Lacs), continued negotiation of Phase II of the 1854 Treaty case (Fond du Lac) and issues of trespass, tribal sovereignty and state-tribal jurisdiction.

Miscellaneous. The division provided legal advice to DNR in connection with numerous day-to-day matters including rulemaking, intellectual property, licensing agreements, various legal issues involving state-owned lands in the BWCA, trespass; legislation, federal preemption, state and local jurisdiction, agency authority, and, issuance of licenses, titles and registrations.

Minerals. During FY 03, the division provided legal advice to DNR on issues concerning the ownership and leasing of mineral rights and reviewed and approved approximately 23 mineral leases.

Parks, Trails and Waterways. During FY 03, the division represented DNR Trails and Waterways at the district court and the court of appeals in a legal challenge to DNR's development of off-highway recreational vehicle trails in state forests. The division provided legal advice to the DNR as it worked with the Army Corps of Engineers to cooperatively construct the McQuade Road Harbor project, a small craft harbor on Lake Superior, and with respect to the proposed Mississippi Whitewater Park. The division provides ongoing legal advice to DNR regarding park, trail and waterway use, access, trespass and other regulatory matters.

Real Estate - Acquisitions. During FY 03, the division assisted DNR with approximately 102 real estate acquisitions totaling over \$8 million and involving approximately 4,900 acres of land.

Real Estate - General. During FY 03, the division represented DNR in a number of district court and administrative matters involving real estate transactions and disputes. The division responded on behalf of DNR to approximately 99 quiet title actions and land registrations. These actions are commenced to resolve real estate title issues on specific parcels of land throughout Minnesota. Most commonly the division responds in order to reserve the state's mineral interests and regulatory rights on navigable waters. In *State v. Hess, et al.*, (DNR) commenced a Quiet Title Action in Hubbard County to determine the ownership of the former Burlington Northern Railroad right-of-way, now known as the Paul Bunyan State Trail. The division also defended the department in a lawsuit regarding the ball field lights and fences at the Fort Snelling Upper Bluff and represented the DNR in approximately 27 condemnation proceedings.

Real Estate - Land Exchange. During FY 03, the division prepared title opinions and drafted deeds with respect to approximately 15 land exchanges.

Transactions. During FY 03, the division provided legal advice including the drafting and review of approximately 825 DNR transactions (valued at approximately \$34 million dollars), that included contracts, memoranda of understanding, geographic name changes, leases and interagency agreements.

Waters, Wetlands & Drainage. During FY 03, the division represented DNR Waters in a number of district court and administrative matters regarding the construction, maintenance and repair of drainage ditches, issuance of permits for work in public waters, enforcement of lakeshore zoning regulations and the restoration of waters and wetlands. Other areas in which the division advises DNR Waters include water appropriation, rule promulgation, flood control, flowage easements, use of groundwater and ditch assessments. The division also represented the DNR in an administrative action regarding well interference complaints against the City of Lakeville.

Wildlife. In FY 03, the division provided legal services to DNR Wildlife relating to rule promulgation for hunting and trapping, treaty harvest under the 1837 and 1854 Treaties, wildlife disease control including chronic wasting disease, establishment of several Scientific and Natural Areas, water level management of Bear Lake in Freeborn County and numerous day-to-day issues arising in connection with Wildlife's extensive regulatory programs. The division assisted the DNR in obtaining a temporary restraining order to stop a party from bringing deer carcasses into Minnesota from Wisconsin areas where deer have been infected with chronic wasting disease.

Department of Agriculture

The division provides a range of legal services to the Department of Agriculture (MDA) including general legal advice, reviewing and drafting of contracts and representation in litigation. In FY 03, the division reviewed approximately 95 Agriculture Best Management Program loan contracts and independent contractor service contracts. The division represented MDA in administrative law matters, arbitration proceedings and farm loan disputes, including a dispute over claims filed after Imogene Elevator, Inc. surrendered its grain buyers and storage license and filed for bankruptcy as well as cases involving the MDA's suspension of a Grade A Dairy permit based on unsanitary conditions. The division also assisted the department with several collection matters and obtained over \$80,000 as a result of these efforts.

Board of Water and Soil Resources

The division provides a broad range of legal services to the Board of Water and Soil Resources (BWSR) including general legal advice, reviewing and drafting of contracts and representation in litigation. In FY 03, the division assisted BWSR on real estate issues related to conservation easements including reviewing approximately 1,052 "Reinvest in Minnesota" (RIM) contracts. The division assisted BWSR in the Wetland Conservation Act program by advising BWSR on rulemaking interpretation of legal authority, regulatory appeals, wetland banking and easement transactions and representing both BWSR and the DNR in disputes involving issues relating to implementation of the Wetland Conservation Act.

Board of Animal Health

The division provides general legal services and advice to the Board of Animal Health. Of particular significance, during FY 03, was the provision of legal advice with respect to the Board's efforts to prevent chronic wasting disease from entering the state.

Minnesota Historical Society

The division provides general legal services and advice to the Minnesota Historical Society (MHS). The division also provides legal services in connection with real estate transactions involving state historic sites administered by MHS.

State Archeologist

The division provides general legal services and advice to the State Archeologist. Most advice rendered arises out of the State Archeologist's regulatory program for archeological work on public lands and waters and with regard to Indian burial sites.

Minnesota Indian Affairs Council

The division provides general legal services, advice and litigation support to the Indian Affairs Council.

Indian Law

The division provides legal assistance to local unites of government and a number of state agencies in connection with Indian law issues.

ENVIRONMENTAL PROTECTION DIVISION

Attorneys in the Environmental Protection Division (EPD) provide legal advice and representation to the Minnesota Pollution Control Agency (MPCA), the Environmental Quality Board, and the Office of Environmental Assistance.

Environmental Law Enforcement

EPD attorneys work with MPCA staff members and provide legal advice regarding available enforcement alternatives. Once MPCA decides on a course of action, EPD attorneys assist in carrying out the action. For most enforcement actions this generally involves MPCA's issuance of an administrative penalty order (APO) that identifies corrective action(s) for a party to come into compliance with environmental laws and the payment of a civil penalty in an amount up to \$10,000. The penalty may be forgivable or non-forgivable. If the regulated party disagrees with the order, it may request a contested-case hearing before an administrative law judge or petition for review before a district court. In either case, the resulting litigation is handled by an EPD attorney.

For more serious violations, stipulation agreements are negotiated with the regulated party. These agreements generally establish a schedule for taking corrective action(s) or coming into compliance and the payment of a civil penalty. EPD attorneys are involved in these negotiations to address the legal issues that arise and to assist in drafting language that clearly prescribes the roles and responsibilities of the parties. In situations where settlement cannot be reached, the enforcement matter is litigated in district court on behalf of MPCA by EPD attorneys.

In FY 03, MPCA took a total of 312 enforcement actions that included 129 APOs and 46 stipulation agreements. In addition to obtaining compliance with environmental laws, the civil penalties imposed totaled \$1,355,371. Regulated parties also agreed to carry out supplemental

environmental improvement projects having an estimated value of \$297,371. Enforcement matters handled by EPD attorneys included the following:

- EPD represented the MPCA and coordinated with attorneys representing the U.S. Environmental Protection Agency (EPA) in negotiating a comprehensive settlement with 12 Minnesota ethanol plants for alleged New Source Review violations under the federal Clean Air Act. The negotiated agreement required each plant to install pollution control equipment. Reductions for volatile organic compounds were estimated to be between 2,400 to 4,000 tons per year, for carbon monoxide 2,000 tons per year, for nitrogen oxides 180 tons, for particulate matter 450 tons, and for hazardous air pollutants 250 tons. These reductions are intended to significantly improve local air quality and should reduce offensive odors from these facilities.
- EPD represented the MPCA in a second coordinated enforcement action with EPA that involved the ADM Company facilities located nation-wide. ADM allegedly violated federal "New Source Review" regulations. Under the negotiated settlement, ADM's Minnesota facilities were required to upgrade environmental control equipment and pay a civil penalty of \$183,000.
- EPD assisted in the settlement of litigation commenced by Attorney General Hatch and MPCA involving a seven-year dispute over nuisance odors and hundreds of violations of air quality hydrogen-sulfide standards emanating from operations at a ValAdCo feedlot. The settlement included a \$125,000 fine and closure of one of the largest manure lagoons in the state. The settlement also included major environmental improvements at several other feedlot sites operated by ValAdCo. ValAdCo sold all of its Minnesota operations to another operator who agreed to close out all of the problem manure lagoons and to replace them with proven systems for achieving compliance with air quality standards.
- EPD represented MPCA in a settlement with GTH, Inc. (formerly Glasstite, Inc.) to remedy hazardous and solid waste, tank, and water quality violations. The company agreed to pay a \$95,000 civil penalty and to clean up groundwater contamination.

Client Advice

EPD provides legal advice to the MPCA on a variety of issues. An average of 200 files are maintained regarding ongoing legal advice. The majority of legal issues about which the MPCA seeks advice involve enforcement, permits, rulemaking and environmental review. During FY 03, there were a variety of other issues with respect to which EPD advised MPCA. These included tank leak cleanup cost recoveries, superfund cleanups, natural resource damages, asbestos removals, bankruptcies, contract disputes, hazardous and solid waste disposal, creation of sewer districts, creation of conservation easements, purchases of easements and real property, groundwater contamination, federal facility superfund cleanups, individual septic treatment

systems, administrative inspection orders, storm-water runoff, air toxin and federal new source review.

Landfill Insurance Recovery Project

EPD assisted special attorneys in the filing of a second landfill insurance recovery lawsuit in September 2002 against approximately 14 carriers to recover state cleanup costs relating to the Waste Disposal Engineering and St. Augusta landfills. During FY 03 settlement agreements were reached between the State and Travelers and Wausau insurance companies, bringing an end to the original landfill insurance case involving the state's cleanup claims for the Oak Grove and East Bethel landfills. Total net recoveries obtained in FY 03, and deposited in dedicated state cleanup funds, were approximately \$11.7 million. This brings total net recoveries for the project to \$49.5 million.

Legal Services To Other EPD Client Agencies

Environmental Quality Board (EQB). The EQB operates as a general interagency coordinating board for environmental quality issues involving the State and its citizens. EQB has two major areas of responsibility (1) as overseer of the environmental review process as carried out by local and state governmental units under the Minnesota Environmental Policy Act and (2) the issuer of permits regarding sites and routes for large energy facilities under the Power Plant Siting Act and other laws.

EPD primarily provides legal advice to the EQB with respect to the implementation of its delegated legal authorities. On occasion, the EQB will intervene in a matter to ensure that environmental issues are raised and properly considered. During FY 03, for example, EPD represented EQB as a party in a Public Utilities Commission contested case proceeding. The matter involved Xcel's application for Certificates of Need for four large high voltage transmission lines in southwestern Minnesota designed to enhance power carrying service for the Buffalo Ridge wind-powered electric generation facilities.

Office of Environmental Assistance (OEA). OEA awards grants for innovative projects to reduce and prevent waste and pollution, improve recycling and composting, conserve resources, conduct resource recovery and provide environmental education. OEA also has responsibility for: assisting businesses and local governments in all areas of solid waste matters, coordinating the statewide household hazardous waste program, approving county solid waste management plans and issuing certificates of need for mixed municipal solid waste capacity.

EPD provides general legal counsel in all of the above areas. For example, EPD assisted OEA in revising the liability provisions in contracts implementing the Household Hazardous Waste Program by Minnesota counties. Changes to the contract were required because the legislature had amended the statute governing liability for counties to operate the program.

HEALTH AND ANTITRUST DIVISION

Health Matters

This division provides legal advice to the Minnesota Department of Health (MDH) concerning its regulatory responsibilities and represents MDH in all litigation and regulatory enforcement actions. MDH regulates and oversees a number of different subject areas, including environmental health hazards, infectious diseases, health care facilities, health maintenance organizations and certain health professionals. The division also advises MDH about legal issues concerning contracts, leases and other transactions.

In FY 03 the division handled more than 35 cases concerning maltreatment of vulnerable adults in nursing homes and other healthcare facilities. In addition, in eight cases, the division defended MDH's decision not to allow certain disqualified individuals to work in direct contact with patients or residents of health care facilities or health care service organizations (such as a home care agencies). Examples of the division's cases included:

- *Hospital Neglect:* A 26-year-old woman was brought to the hospital's emergency room at 5:45 a.m. displaying classic symptoms of meningococcal disease. Throughout the day the woman's condition worsened and nurses allegedly rebuffed her parents' pleas for further evaluation by a doctor. No antibiotics were ordered until that evening when it was too late to save the woman's life. MDH concluded the hospital neglected the woman by failing to properly coordinate her care -- finding that her caregivers failed to properly assess her and failed to properly communicate about her condition. The hospital appealed. The hospital ultimately withdrew its appeal and MDH's finding of neglect was preserved.
- *Hospital Neglect:* A 37-year-old man had hip replacement surgery. When he returned to his room he was given pain medications, including morphine. One nurse was assigned to the patient's care during the evening shift, and another nurse was assigned to the patient's care during the night shift. At 6 a.m., the patient was found not breathing. Attempts to resuscitate him were unsuccessful. An autopsy indicated the patient had blood levels of morphine that were sufficiently high as to have contributed to his death. MDH concluded the two nurses neglected the man because they failed to assess his pain and sedation level prior to administering pain medications. The nurses appealed. This matter was resolved when, pursuant to settlement agreements, the nurses withdrew their appeals and the findings of neglect were preserved.
- *Nursing Home Abuse:* An elderly nursing home resident, who suffered from dementia and could not communicate, was found to have a badly bruised arm with a spiral fracture. Medical experts reported that such fractures are caused by twisting the arm. The nursing assistant who cared for the resident at the time in question had a history of disciplinary actions taken against her for incidents involving both staff and nursing home residents, including a report from a resident that the assistant had twisted her arm. MDH concluded the nursing

assistant abused the resident by breaking her arm. The nursing assistant appealed and division attorneys defended MDH's conclusion. The Commissioner of Health upheld the finding of abuse.

- *Nursing Home Neglect:* The Minnesota Court of Appeals found that a nursing home neglected a resident when, despite her deteriorating mental condition, its staff allowed the resident to leave the facility on three occasions within one week. On one of the occasions the resident left the nursing home in the middle of a December night, wearing nothing but her nightgown, slippers and a coat. She was eventually found by the police on the side of a road. The Court affirmed the Commissioner's decision that the nursing home neglected the resident. The facility has petitioned the Supreme Court for review.

In addition to maltreatment hearings, the division also advised MDH in its efforts to enforce the laws concerning infectious diseases, environmental health hazards, regulation of health occupations and regulation of funeral and burial goods providers. Specific examples of the division's work included:

- *Tuberculosis Health Threat Cases:* Two individuals with tuberculosis failed to take medication required to treat their disease. In both cases the individuals refused to cooperate with public health authorities who tried to deliver the anti-tuberculosis medication to their homes. MDH issued orders requiring both individuals to comply with their doctors' instructions, but the individuals did not cooperate. In both cases, division attorneys obtained court orders requiring the individuals to take their medication.
- *Asbestos Regulation:* An asbestos abatement company violated state law when it failed to notify MDH about a large asbestos removal project it performed at a junior high school. MDH staff later determined the company violated several asbestos safety regulations, which could have caused unsafe asbestos exposure to students and others in the building. MDH issued a \$6,000 administrative penalty against the company and the company appealed. Division attorneys defended the enforcement action before an Administrative Law Judge and the Commissioner of Health ultimately upheld the penalty.
- *Hearing Instrument Dispenser:* A hearing instrument dispenser who sold hearing aids manufactured for another company he owned, went out of business, leaving numerous consumers with no way to obtain warranty work on the hearing aids they had purchased. In addition, several consumers had returned their hearing aids, but had not received a refund when the dispenser went out of business. Division attorneys represented MDH in reaching an agreement whereby the dispenser refunded approximately \$11,000 to consumers, offered consumers a way to obtain warranty work on the hearing aids they had purchased and paid for MDH's investigation costs.

Antitrust Matters

The division investigates violations of state and federal antitrust laws, and enforces these laws when it uncovers evidence of anticompetitive conduct. The Minnesota Antitrust Act prohibits a number of activities that restrain trade, including price-fixing, bid-rigging, group boycotts, unlawful abuses of monopoly power and anticompetitive mergers. In examining activities that are in restraint of trade, the division scrutinizes the anticompetitive effect of any illegal conduct in the Minnesota market. The division ensures consumers, businesses and government have the best possible environment in which to purchase goods and compete.

Some of the division's most significant work during FY 03 concerned litigation involving anticompetitive conduct in the pharmaceutical industry. The office participated in litigation and joined in multistate settlements in three cases against the manufacturers of the following drugs: Cardizem, Taxol and BuSpar. All three lawsuits alleged that the manufacturer of a name-brand drug wrongfully manipulated the patent process to delay entry of lower-priced generic competitors into the marketplace.

- *Cardizem Settlement:* Cardizem is a widely prescribed cardiovascular drug used to treat chest pain and high blood pressure, and to prevent heart attacks. The antitrust litigation was filed against Aventis Pharmaceutical, Inc., Andrx Pharmaceuticals, Inc., and Carderm Capital, L.P. The litigation resulted in an \$80 million settlement, with more than \$25 million to be made available to injured consumers nationwide. Minnesota consumers will be able to file claims for a portion of the settlement and the State will receive more than \$100,000 in government damages and attorney fees.
- *Taxol Settlement:* Taxol is a cancer drug of last resort typically used in the treatment of ovarian, breast and other cancers. The case was filed against Bristol-Myers Squibb and the litigation resulted in a \$55 million settlement, of which \$12.5 million will be distributed to injured consumers nationwide. Minnesota consumers will be able to file claims for a portion of the settlement and Minnesota is expected to receive more than \$300,000 in state damages and attorney fees.
- *BuSpar Settlement:* BuSpar is a widely prescribed anti-anxiety medication. The case was filed against Bristol Myers Squibb, Watson Pharma, Inc. and Danbury Pharmacal Inc. The antitrust litigation resulted in a nationwide settlement of \$100 million. Roughly \$30 million will be distributed to consumers nationwide. Minnesota consumers will be able to file claims for a portion of the settlement and Minnesota expects to receive more than \$150,000 in state damages.

HEALTH LICENSING DIVISION

The Health Licensing Division represents the State's health licensing boards, the Health Professional Services Program ("HPSP"), Minnesota Board of Law Examiners and the Continuing Legal Education Board. The Health Licensing Division works in coordination with

the Health Investigations Division. The division provides both general counsel service and advising attorney services to each of the boards, represents the boards at disciplinary conferences and represents the boards in contested case proceedings and judicial proceedings.

During FY 03 the division provided legal representation to all 15 of the State's health-related licensing boards. The legal services are comprehensive and include providing legal advice and assistance during disciplinary committee investigations, conferences with licensees and contested case hearings. During FY 03, the division initiated civil suits against an unlicensed medical practitioner and a formerly licensed nurse who stole the identities of other nurses. The division also obtained an injunction against an unlicensed veterinary medicine practitioner.

In FY 03 the division handled administrative licensing cases involving sexual misconduct, telemedicine prescribing, identity theft, inability to practice with reasonable skill and safety and diversion of narcotics by health care workers. The division also drafted legal documents and assisted boards in non-litigation areas by providing legal advice on licensure issues, rulemaking and data practices. Division staff negotiated numerous contested case settlements in FY 03 through the use of pre-litigation mediation and direct negotiation.

The division also assists the HPSP in establishing practice restrictions for impaired physicians and nurses. In FY 04, the division anticipates becoming involved in issues related to Health Insurance Portability and Accountability Act ("HIPAA") and the creation of a new State Board of Behavioral Health.

HEALTH LICENSING INVESTIGATIONS DIVISION

The Health Licensing Investigations Division provides investigative services to 15 health licensing boards and two non-health licensing boards. The division works in conjunction with the Health Licensing Division.

Investigations undertaken by the division on behalf of the health licensing boards are increasingly complex. Diverse investigative skills and technical knowledge are required to ensure maximum public protection. The staff of the division includes investigators with professional experience in nursing, psychology, dentistry, chiropractic and other disciplines.

Cases for investigation are received and reviewed utilizing a common point-of-entry approach. This approach ensures a coordinated and focused review. Investigations involving allegations which, if proven, present imminent danger to the public and/or licensee are handled on an expedited basis. Division investigators also:

- investigate allegations of sexual misconduct;
- review medical records involving allegations relating to competency and quality of care;
- review billing records involving allegations of billing fraud;
- inspect practice settings for infection control procedures.

Case management software and investigative reporting procedures are used by the staff in conducting investigations and managing their cases. These tools assist the investigators in managing and investigating cases in an objective, timely and efficient manner.

RESIDENTIAL UTILITIES DIVISION

The Residential Utilities Division (RUD) is responsible for representing and furthering the interests of residential and small business utility consumers. The RUD works to protect residential and small business consumers' interests in the complex and changing telecommunications, gas and electric industries, particularly where matters involve utility rates, reliability of utility service, and quality of service. In fulfilling these responsibilities, the RUD utilizes two distinct functions - consumer mediation and legal advocacy.

The consumer mediation component of the RUD investigates and mediates individual consumer complaints relating to any and all aspects of utility services. During FY 03, the RUD handled approximately 3,000 complaints, resulting in substantial savings and refunds to residential and small business utility consumers and innumerable non-monetary resolutions to consumer utility problems.

RUD consumer mediators also work proactively with utilities to address systematic problems that become apparent through complaints received in the division. For example, RUD consumer mediators and attorneys have worked with Xcel Energy over the past year to address specific issues related to shared meter complaints received in this Office and at the Public Utilities Commission. As a result of those efforts, Xcel has proposed and the Commission has approved tariffs designed to address billing issues associated with shared meter situations. In the telecommunications area, the RUD advocated against Qwest's entry into the long distance market. In addition, in connection with Qwest's unlawful entry into secret agreements with two of its competitors, the RUD requested that the PUC order Qwest to provide, among other things, telemarketing blocking service to senior citizens and greater DSL deployment to rural cities.

The legal advocacy component of the RUD advocates on behalf of residential and small business utility consumers before the Minnesota Public Utilities Commission and in state and federal courts. RUD attorneys appear on a wide range of matters that directly or indirectly affect residential and small business utility consumers. For example, during FY 03, the RUD negotiated a rate reduction with Sprint Telecommunications when Sprint requested from the Commission renegotiation of its alternative form of regulation plan. On the energy side the RUD successfully ended Xcel's proposed time-of-use program for residential customers, which would have been an expensive pilot program and which would have resulted in a rate increase to Xcel customers.

The RUD commonly initiates or becomes involved in proceedings relating directly to customer service. For example, this year the RUD received dozens of complaints from McLeod small business customers experiencing poor service and unreasonable termination fees upon attempting to leave McLeod service. After filing a complaint with the Public Utilities

Commission, the RUD subsequently negotiated a settlement with McLeod that resulted in restitution to nearly all McLeod business customers that were assessed a termination liability charge, a penalty, and improved service quality standards. The RUD has also been actively involved in the Commission's investigation into the reliability of Xcel's service outage reporting to the Commission.

GOVERNMENT SERVICES SECTION

CIVIL LITIGATION DIVISION

The Civil Litigation Division has several separate functions. First, the division provides litigation services to a variety of clients, ranging from the Governor and other constitutional officers to various state agencies. This includes legal advice and litigation defense for agencies and officials in the judicial branch of government. Second, the division provides legal representation to all state agencies and the judicial and legislative branches of the State on a broad range of employment issues and claims. Third, the division investigates, settles and litigates tort claims against the State, its agencies and employees in personal injury, property damage and wrongful death lawsuits. Fourth, the division serves as general counsel to the members of the Public Utilities Commission (PUC) and the Commission's staff.

General civil litigation, including constitutional challenges, handled in the past year has included:

- On remand from the United States Supreme Court, defended a challenge to the Minnesota Judicial Code's restrictions on partisan political activities by judicial candidates.
- Submitted appellate amicus briefs on behalf of the State to defend the constitutionality of a criminal sexual conduct statute and the "one family - one judge" project for handling related family and juvenile court matters.
- Defended a challenge in state court to the Minnesota statutes that provide for funding of shelter and support services for domestic abuse victims.
- Represented Minnesota, as the lead plaintiff among a group of states, in a federal court action to prevent operation of the National Indian Lottery in violation of federal and state laws.

The division provides legal representation to all state agencies and the judicial and legislative branches of the state on a broad range of employment issues and claims, including claims under the Whistleblower statute, Minnesota Human Rights Act, Americans with Disabilities Act (ADA), Family Medical Leave Act (FMLA) and claims of discrimination and harassment under Title VII. In addition, the division has represented MnSCU in several class action lawsuits involving claims of unequal pay. The division represents the State and state officials in actions filed in federal and state court and before administrative tribunals.

In addition to defending the State in employment cases, the division provides day-to-day legal advice. The division assists state agencies in addressing and resolving various employment problems, including: ADA accommodations, investigation of harassment complaints, revising and implementing employment policies, releasing information under the Data Practices Act and

state employee conflicts of interest issues. The division is committed to utilizing and creating methods that can prevent lawsuits, such as providing counseling early on in the process when employment problems surface and conducting training sessions for managers, human resource directors, and state judges on recent developments in employment law and providing technical guidance.

The division investigates, settles and litigates tort claims against the State, its agencies and employees in personal injury and property damage lawsuits. Most commonly the allegations are of negligence, but they also involve wrongful death, defamation, infliction of emotional distress, excessive use of force, interference with business relations and federal civil rights claims. Examples include highway crash cases in which MnDOT is faulted for inadequate design, construction or maintenance of a state highway, suits against the Departments of Human Services and Corrections for deaths occurring in the institutions they operate and claims against the Department of Natural Resources arising from snowmobile and ATV accidents on state trails.

During the last fiscal year, the division saved the State more than \$2.5 million dollars by its resolution of tort claims and an additional several million dollars from its successful defense of employment law claims.

The division advises the Public Utilities Commission (PUC) on matters before it and represents the PUC in litigation in state and federal courts and before the Federal Communications Commission. The division has seen a continuing high volume of legal work in the telecommunications area, increasingly involving contract interpretation and enforcement of existing interconnection agreements between telecommunications carriers and charges of anticompetitive conduct. Two PUC enforcement decisions assessing substantial penalties upon Qwest for anticompetitive violations are presently on appeal in federal district court. The PUC recently completed its lengthy administrative process of developing an evidentiary record for Qwest's application to provide long distance service with the FCC. The PUC's pricing decisions from this process have been appealed to federal court. Other telecommunications litigation in state and federal courts involves the scope of PUC jurisdiction and federal preemption issues. The division also provides legal services with respect to the Commission's energy policies, including certificates of need, rates and regulations.

MEDICAID FRAUD DIVISION

The Medicaid Fraud division is a federally-certified Medicaid Fraud Control Unit with a two-fold mission:

1. Review and investigate reports of vulnerable adult abuse and neglect in nursing homes, group homes, foster care homes, hospitals, board and care residences and home care providers. In FY 03, the division opened 23 abuse and neglect investigations.

2. Investigate and prosecute health care providers who commit fraud in delivery of the Medical Assistance program. During FY 03, the division opened 29 fraud investigations and 7 patient fund investigations.

The division receives its referrals from citizens, police, county adult protection workers, and state agencies. The division reviews all of the investigations generated by the two state licensing agencies: the Department of Health, which investigates complaints from hospitals, nursing homes, assisted living and home health agencies, and the Department of Human Services, which investigates facilities and programs for the developmentally disabled, chemically dependent, mentally ill and adult foster care homes. In FY 03, the division reviewed 374 vulnerable adult cases involving Health Department investigations and 487 cases involving Department of Human Services' investigations.

The staff in the division follow up on these administrative investigations to ensure that law enforcement is involved in criminal cases, and interacts with city and county attorneys to request the issuance of criminal complaints for assault, abuse and financial exploitation of vulnerable adults. Division attorneys also assist local prosecutors and accept referrals to prosecute these cases around the State. The division made court appearances in 12 counties during FY 03.

During FY 03, the Medicaid Fraud Division's efforts resulted in the conviction of six individuals of Medicaid fraud, 11 individuals of abuse or neglect of vulnerable adults, and four individuals of theft of patient funds. In addition, the division referred individuals for administrative sanctions and program exclusion. These referrals resulted in professionals losing their licenses to practice, nurse aides receiving exclusions from working in federal programs, and agencies losing their ability to receive Medicaid funds. During the past fiscal year, 15 program suspensions were obtained.

One goal of the division is to recover Medicaid funds from providers who fraudulently bill the program for services not provided. In separate incidents, the division obtained two guilty pleas by personal care attendants who were charged with submitting false timecards and billing the Department of Human Services, through their personal care provider organizations, for services they did not provide. The division recovered over \$23,000 in Medicaid restitution from these two individuals.

During FY 03, the division entered into a civil settlement with a Medical Assistance provider of special transportation that engaged in excessive and fraudulent billings for extra attendants in special transportation. The provider agreed to reimburse the Medicaid program \$105,162.31, representing services that were not actually provided. The division reached a civil settlement with a home health care provider who agreed to reimburse the Medicaid program \$139,736.08 for services it claimed were provided, but were not documented.

The division was successful in prosecuting a theft and financial exploitation of a vulnerable adult case. The victim executed a power of attorney and appointed the defendant her attorney-in-fact. The defendant then convinced the victim to deed over her house and name the defendant as a beneficiary in the victim's will. The defendant was convicted and, in addition to

serving jail time, was required to pay restitution to the victim and to deed the home back to the victim.

The Medicaid Fraud Division also successfully tried a matter involving criminal neglect by a corporation. A jury convicted the corporation for allowing a vulnerable adult who was quadriplegic, suffered from asthma and allergies, was unable to communicate, and had other severe medical conditions, to be housed in a screen tent for over 10 days and then was moved to an upstairs bedroom in a house occupied by smokers and pets, with no air conditioning, and no egress. The corporation was sentenced to the maximum fine allowed by law.

TAX LITIGATION DIVISION

The Tax Litigation Division represents the Minnesota Department of Revenue in court cases appealing tax assessments, seeking refunds, contesting collection actions and challenging the validity of the State's tax laws. Division attorneys appear in the Minnesota Tax Court, State District Courts, Federal District and Bankruptcy Courts and in the state and federal appellate courts. In FY 03, the division opened 143 new cases, exclusive of a number of bankruptcy matters. The bulk of new cases continue to be concentrated in the income tax and sales tax areas. The division continued to experience an increase in the number of *pro se* cases, where the party is not represented by an attorney. These include a growing number of cases filed by tax protestors, persons who contend that the income tax is unconstitutional or cannot be applied to income from their wages, generally on grounds that have been universally rejected by the courts.

During FY 03, the division:

- Obtained a favorable decision from the Minnesota Supreme Court, on statutory and state and federal constitutional grounds, that two businesses providing investment advisory and support services to Minnesota mutual funds were required to attribute their income from those services to Minnesota, rather than to the taxing jurisdictions where the investors in the mutual funds reside.
- Sustained at the Minnesota Supreme Court a favorable decision of the tax court that a major oil company was subject to the corporate franchise tax, over the company's claim that the motor vehicle fuel tax it paid was in lieu of the franchise tax, although the tax court's ruling that the company was not required to report the income of its exploration and refining businesses to the State was also sustained.
- Obtained a favorable decision in state district court upholding against an equal protection constitutional challenge the legislature's decision to impose the sales and use tax on all items sold through vending machines.
- Obtained a favorable ruling in state district court rejecting a preliminary effort by tobacco manufacturers to restrain and enjoin the imposition of a fee on cigarettes sold by manufacturers who had not entered into a settlement in prior litigation

between the State and tobacco manufacturers or had not voluntarily entered into a similar agreement.

- Obtained a favorable decision in state district court that the Minnesota Department of Revenue had properly levied on the home and personal property of a taxpayer who claimed to have changed his residence to the State of Florida prior to the tax year in question.
- Obtained a favorable decision in the tax court requiring a seller of products for use in the telecommunications industry which had not received valid exemption certificates from its customers, to pay the sales and use tax on its sales.
- Obtained a favorable decision in the tax court that three telecommunications companies' substantial capital equipment sales tax refund claims for tax paid on the purchase of telecommunications equipment did not qualify for refund under the statutory exemption.
- Obtained several favorable decisions in the tax court enforcing the requirement that taxpayers timely serve and file their appeals to have them heard by the court.
- Obtained a favorable decision in the federal bankruptcy court in Ohio upholding the State's claim for the payment of pre-petition, delinquent state tax liabilities of a mining company in excess of \$16,000,000 and permitting the State to offset the overpayment of other tax liabilities against the unpaid debt.
- Obtained a favorable decision in the federal bankruptcy court in Wisconsin upholding, over the debtor's objection, the State's claim to unpaid sales tax, interest, and penalty, where the State had acted in good faith and without misconduct and use of the equitable subordination doctrine was inappropriate.
- Obtained several favorable decisions in federal district court, state district court, and the tax court rejecting the claims of tax protestors that their income from wages was not subject to the Minnesota income tax or that state tax liens could not be enforced against funds that they had shifted into various other entities they controlled.
- Appeared in court in approximately 31 bankruptcy cases, in Minnesota and other states. Of these cases, approximately 16 involved individual debtors who had not complied with state law by filing their income tax returns before proceeding with the bankruptcy case. In the remaining cases, the division successfully defended many of the State's bankruptcy claims, resulting in court orders to pay those claims.
- Appeared in several quiet title and foreclosure cases in state and federal court where the division successfully defended or preserved the priority of state tax liens over the liens and judgments of other claimants.

- Negotiated settlements where appropriate.

Tax litigation has continued to become increasingly complex in recent years. Major issues on the horizon include “nexus” claims, where a corporation does part of its business in the state through so-called “independent contractors” or has a significant economic presence here; passive loss, residency, and jurisdiction to tax in individual tax cases; application of the capital equipment exemption to telecommunications companies; and indirect sales tax audits issued to cash businesses, where a lack of business records has required the reconstruction of the taxpayers’ sales through third-party records. It is anticipated that these and other issues will continue to generate significant future litigation.

PUBLIC PROTECTION SECTION

APPEALS DIVISION

The Appeals Division handles felony appeals for 83 of the state's 87 counties. The goal of the division is to uphold convictions that are properly obtained and also to shape and develop criminal case law so as to enhance the protection of Minnesota's citizens.

Demand for the division's services remains high. In FY 03, the Appeals Division handled 173 criminal appeals. Of these cases, 159 were before the Minnesota Court of Appeals, 12 were before the Minnesota Supreme Court, and 2 were in federal court. Along with filing briefs and motions on these cases, attorneys in the division represented the state in 48 oral arguments before the Minnesota Court of Appeals and Minnesota Supreme Court.

The cases handled by the Appeals Division in FY 03 involved, among other crimes, murder, sexual assault, arson, drug distribution and manufacturing, racketeering, kidnapping, car jacking, child sexual abuse, and felony assault. The division handled murder cases from Stearns County, St. Louis County, Watonwan County, Kandiyohi County, Mower County, Nobles County, Steele County, Chisago County, Pine County and Norman County among others.

The most high-profile case handled by the Appeals Division this fiscal year is *State v. Donald Blom*. Blom was convicted of first-degree murder in the death of Katie Poirier. Following a very lengthy jury trial that generated a transcript in excess of 7,000 pages, Blom raised numerous issues in his appeal. He claimed, among other things, that his confession should have been suppressed because it was made in connection with negotiations for a guilty plea, that the trial court should have changed the venue of the trial from Northern Minnesota, and that he was denied the effective assistance of counsel at his trial. The Minnesota Supreme Court has yet to render its decision in this case.

In addition to handling appellate cases, division attorneys assist Attorney General prosecutors by providing legal research and preparing legal memoranda, and assist local prosecutors on legal questions. Attorneys in the Appeals Division are also responsible for advising the Governor on interstate extraditions, and handling property forfeiture proceedings arising from criminal conduct.

PUBLIC SAFETY/GAMBLING DIVISION

The Public Safety/Gambling Division represents the Commissioner of Public Safety at thousands of implied consent hearings each year in which drivers found to have been drunk and unsafe lose their licenses. The division is responsible for defending actions that resulted in the collection of driver's license reinstatement fees paid to state government over the last fiscal year. The division's litigation of overweight truck violations also resulted in substantial fines paid to

State. Efforts by the division during the last fiscal year to reduce deaths, injuries, and property damage on Minnesota's streets and highways included:

- Defended the state against numerous constitutional and other challenges to the DWI, implied consent, traffic, and other public safety laws.
- Provided satellite teleconference training on DWI procedures and traffic safety laws for law enforcement officers throughout the State of Minnesota.
- Published of the *2003 DWI/IC Elements* handbook utilized statewide by prosecutors, judges, defense attorneys and law enforcement professionals.
- Handled over 4,300 district court implied consent proceedings challenging the revocations of driving privileges under Minn. Stat. § 169A.50-53.
- Handled over 150 district court challenges to other driver's license cancellations, withdrawals, revocations, and suspensions under Minn. Stat. § 171.19.
- Handled appeals to the Minnesota Court of Appeals and Minnesota Supreme Court resulting from district court appearances involving the revocation, suspension, cancellation, or withdrawal of driving privileges.

The division also provides legal services to the Commissioner of Public Safety and various divisions of the Department of Public Safety including the State Patrol, Bureau of Criminal Apprehension, State Fire Marshal's Office, Office of Pipeline Safety, Office of Emergency Management, Office of Drug Policy and Violence Prevention, Office of Crime Victims Services, Office of Traffic Safety, and the Driver and Vehicle Services Division. Petitions for expungement of criminal records served on the Bureau of Criminal Apprehension are monitored and challenged, where appropriate, by the division. Additionally, regulation of the private detective and security industry is enhanced by the division's representation of the Private Detective and Protective Agent Services Board.

The Public Safety/Gambling Division faces a significant challenge from a dramatically increased workload. Driver's license revocations under the implied consent law are being challenged at an increasing rate. For example, in 1993 a mere six percent of all revocations were challenged in court. By 1997, the rate of challenges rose to ten percent. In FY 03, nearly fourteen percent of all drivers' license revocations were challenged in court. Today's challenge rate is the result of the toughening of DWI laws by the legislature over the last few years including the ability to use an implied consent revocation to impound license plates, forfeit motor vehicles, and enhance subsequent criminal offenses to gross misdemeanor and felony violations. Because drivers have more at stake from having an alcohol-related license revocation on their driving records, they are more willing to challenge the underlying revocations in district and appellate courts.

In FY 96, the Public Safety/Gambling Division defended 2,121 implied consent cases in district court. In FY 03, 4,358 implied consent cases were defended, a 105 percent increase from

FY 96. Implementation of the new test refusal law and increased license reinstatement fees to fund felony DWI during the next fiscal year are expected to increase the division's caseload significantly. Accordingly, for FY 04, the division will be required to defend over 4,550 implied consent challenges in court. For FY 05, the division projects another 10 percent increase, to 5,000 cases. Over time, the division has consistently prevailed in approximately 90 percent of its cases at the district court level and 95 percent at the appellate level.

The division also provides legal advice and representation to the Gambling Control Board, the Minnesota Racing Commission, the Minnesota State Lottery, and the Alcohol and Gambling Enforcement Division of the Department of Public Safety. These agencies have thousands of licensees and conduct numerous investigations each year. Many of these investigations result in contested case hearings requiring representation from this division. This division provides advice to the Alcohol and Gambling Enforcement Division on issues relating to illegal liquor sales, illegal gambling devices, and Indian gaming. The division also represents that agency in taking action against manufacturers and distributors of liquor and gambling equipment.

With regard to the Racing Commission, this division represents the stewards in appeals of disciplinary action taken against horse owners, trainers, and jockeys. The division also provides representation as it relates to the Commission's regulation of the card club at Canterbury Park. The division provides the State Lottery with a wide range of advice, from internet issues to lottery retailer contract suspensions, and represents the client in disciplinary hearings against lottery retailers and other licensees. A committee of the Gambling Control Board meets monthly with a number of licensees to discuss alleged violations of statutes and rules. The division provides representation at these settlement meetings, drafts the appropriate orders, and litigates the cases in the Office of Administrative Hearings. The division's representation resulted in recovery of fines and costs in excess of \$65,000.00 for FY 03.

TRIAL DIVISION

The Trial Division provides prosecutorial assistance to county attorneys and local law enforcement in the fight against serious, violent, drug, gang-related, and complex white collar crimes, and handles the civil commitment of dangerous sex offenders. In addition, the division provides training for police officers and prosecutors.

The division prosecutes serious crimes in trial courts throughout Minnesota when requested by a county attorney under Minn. Stat. § 8.01. Representative work during FY 03 included:

- Prosecuting violent and serious crimes throughout the state, including the following:
 - Convicted Jonathan Carpenter for three counts of murder in the first degree while committing kidnapping for the brutal murder of a mother and her teenage son and daughter at their home in Long Prairie after he and his accomplice burglarized the

house and raped the daughter. Carpenter was sentenced to life without release on each count to be served consecutively.

Convicted Dustin Vaughn, James Jemming, Nicolas Barron and Ross Saue for their roles in the kidnapping and beating death of Jeffrey Barrett in Chippewa County. The four defendants all participated in the beating of Barrett, whose body was tied to a car axle and thrown in a lake after he was killed. Vaughn and Jemming each were convicted of first-degree murder and were sentenced to life in prison. Barron was convicted of second-degree murder and sentenced to 150 months in prison. Saue, who participated in the initial beating but left before the victim's death, was convicted of third-degree assault and sentenced to the statutory maximum, which was a quintuple upward durational departure.

Convicted Sheri Alger for second degree felony murder for shaking a four month old baby to death in her home daycare. At sentencing, the court gave Alger a 30-month upward departure, sentencing her to 180 months in prison.

Convicted Joseph Folkert for the intentional murder of a 95-year-old farmer in rural Fillmore County. Folkert beat the homeowner to death with a metal pipe after he woke up in the middle of the night and observed Folkert attempting to steal money from the residence. Folkert was sentenced to the statutory maximum of 40 years in prison for intentional murder in the second degree.

Convicted Kevin Brown for second-degree felony murder for the beating death of his 14-year old cousin Rita Burnette in Mahnomen County. Brown provided Burnette substantial amounts of alcohol, took her into the woods, beat her severely, and left her to die. Brown was sentenced to 180 months in prison.

Convicted Jason Bolstad for the first degree premeditated murder of his father. The case remained unsolved for six years, until an alibi witness recanted. Bolstad was given a life sentence.

Convicted Joshua Diaz for second-degree murder for the fatal stabbing of 22-year-old Nathan Hoseck. The stabbing happened at a party in rural Chippewa County after a case of mistaken identity escalated in to violence. Diaz was sentenced to serve 150 months in prison.

Obtained convictions against Stacy Matheson for two counts of first degree murder and one count of attempted first degree murder for the 1992 killings of her seven-month-old daughter and her two-year-old daughter by smothering them with her hand, and the attempted murder of her three-year-old daughter in a similar manner. Matheson was sentenced to life in prison.

Successfully prosecuted Minnesota's first homicide cases involving an explosion at a methamphetamine manufacturing laboratory. Troy Meyer and Jamie Schammel were both convicted in Mower County of third-degree murder for their role in a

methamphetamine manufacturing laboratory that exploded. This explosion killed co-conspirator James Chilson. Troy Meyer received 144 months in prison. Jamie Schammel received 115 months in prison.

Convicted Paul Schumacher, a former high school band director, of three counts of criminal sexual conduct with a student. Schumacher was sentenced to 43 months in prison.

Convicted William Stowell for two counts of pattern of harassing conduct. Stowell engaged in a relentless pattern of stalking and harassment of his ex-girlfriend, her new husband, and her stepson by phone, mail, and e-mail over approximately 16 months. Stowell was sentenced to 108 months in prison, a substantial departure over the 18-month and 23-month probationary sentences provided for by sentencing guidelines.

Conducted over 20 grand jury proceedings and obtained murder indictments in counties throughout the state.

- Providing legal advice and prosecution support to the Minnesota Gang Strike Force, including the following gang cases:

Prosecuted four defendants for the importation and distribution of large quantities of cocaine from Chicago in Wright County and St. Louis County. Obtained a conviction against the primary defendant, Antron Cooper, a Gangster Disciple who coordinated the distribution of the cocaine in Duluth and the Twin Cities metro area. He was sentenced to 144 months to prison on four counts of controlled substance crime in the first degree.

Convicted the final three defendants in an eleven-defendant gang narcotics and racketeering prosecution in Stearns County. The case involved a three-year Minnesota Gang Strike Force investigation of the Black P. Stone and Mickey Cobra street gangs who were transporting cocaine from Chicago to Minneapolis to St. Cloud and then to Moorhead. The eleven defendants in this case received sentences from five years to 15 years in prison depending on their criminal history and cooperation with law enforcement.

Obtained gang-related convictions against ten Latin King Gang members for the gang killing of a Lao Boy Gang member at a trailer park in the city of Chaska. The gang member with the gun, Armando Jaramillo, received a 27-year sentence for intentional murder in the second degree committed for the benefit of a gang. The remaining gang members who had different levels of participation, received sentences ranging from five years to 15 years in prison depending on age, prior criminal history and cooperation with law enforcement.

- Prosecuting cases involving intentional acts that cause damage to the environment, including the alleged dumping of PCB-laden waste in Wright County.

- Prosecuted all methamphetamine cases and other drug cases referred by county attorneys, obtaining 59 methamphetamine labs and 85 total narcotics convictions in 31 counties in FY 03.

Also pursuant to Minn. Stat. § 8.01, Trial Division attorneys handle civil commitment hearings referred by counties in greater Minnesota. The number of these commitments and complexity of the cases has increased steadily over the last several years. Attorneys from the division handled over a dozen sexually dangerous person/sexual psychopathic personality commitment cases in FY 03.

Division attorneys also handle several hearings involving petitions for discharge by individuals civilly committed as sexual predators. As the population of committed sexual predators increases, the number of lawsuits over treatment conditions, along with petitions for *habeas corpus* from the Department of Human Services regional treatment centers, will continue to grow.

The division attorneys also handles administrative hearings required by the Community Notification Act when a registered sex offender challenges the Department of Corrections' assessment of the offender's level of danger upon release from incarceration. Each month, the division handles several of these hearings, which affect the type of notice given to the community into which the sex offender will be released.

The division provides white collar crime training to prosecutors and law enforcement officers on issues ranging from auto theft to arson, provides advice to several state agencies' investigative units, reviews numerous reports of suspected insurance fraud, participates in the Environmental Crimes Steering Committee, reviews potential criminal violations of environmental law and assumes an active role in coordinating law enforcement efforts related to computer related crimes and fraud.

Additionally, the division trains law enforcement officers and prosecutors throughout the state on such topics as: sex offender commitments, stalking and harassment laws, child exploitation laws, firearms laws, narcotics investigations, search and seizure, suspect interrogation, evidence, wiretaps and electronic surveillance, working with grand juries, forfeiture, gang investigation and prosecution and trial advocacy.

During the 2002 legislative session, the division worked with other stakeholders in the criminal justice community to obtain passage of legislation to criminalize the possession of precursor chemicals for the manufacture of methamphetamine. The division also worked with legislators in drafting and testifying on behalf of legislation to make it a felony to manufacture methamphetamine in the presence of children, to increase the penalty for child murder and to clarify and strengthen the state's child pornography laws.

SOLICITOR GENERAL SECTION

CONSUMER ENFORCEMENT DIVISION

The Consumer Enforcement Division seeks to protect Minnesota consumers from unfair and deceptive conduct by taking legal action against violators of Minnesota consumer protection laws. The Consumer Enforcement Division consistently returns restitution dollars to Minnesota consumers and recovers money for the state treasury. During fiscal year 2002/2003, the division again distributed restitution to Minnesota consumers or obtained judgments for such restitution payments totaling several million dollars. The division also exceeded \$1 million in cost recoveries and obtained injunctions halting deceptive practices.

Examples of the work handled by the Consumer Enforcement Division during the last fiscal year include the following:

- *Mortgage Fraud.* The office filed a lawsuit against Home Funding Corporation and related individuals for committing fraud against Minnesota homeowners in foreclosure. The office obtained a temporary restraining order preventing further fraudulent conduct by the defendants in the lawsuit. The suit is part of a wide-ranging investigation into fraud in the attempted refinancing of residential properties in foreclosure. The office also participated as a lead state among Attorneys General and banking regulators in negotiating a record-breaking settlement with Household International for predatory lending practices. Minnesota received more than \$6.3 million in restitution and other payments from Household as a result of this settlement. The office also collected over \$200,000 for consumers as a result of a lawsuit against Countrywide, Inc. for violating the State's private mortgage insurance (PMI) law.
- *Drug Pricing Fraud.* The office brought a consumer fraud lawsuit against Pharmacia, Inc. for improperly manipulating the price of certain prescription medications. The suit alleges that Pharmacia made false and misleading statements about the "average wholesale price" of the medications, which resulted in Medicare recipients in the State paying grossly inflated prices for medications. The office has succeeded in the initial phase of litigation in federal court.
- *Telemarketing/Junk Faxes.* The office was engaged in numerous actions to combat telemarketing fraud and protect consumer financial privacy. The office filed a lawsuit against Midwest Gold and Silver for telemarketing fraud in the sale of gold coins to elderly consumers. The office also successfully obtained a temporary injunction against Sunbelt Communications, one of the largest senders of unsolicited facsimiles (junk faxes). The injunction prevents Sunbelt from sending further unsolicited faxes to Minnesota consumers, including the many small businesses that were burdened by the practice. The office also was responsible for over \$300,000 in refunds to consumers as a result of other settlements with telemarketing companies engaged in deceptive conduct.

- *Auto Dealer/Manufacturers.* The office continued its aggressive prosecution of deceptive sales practices by auto dealers. The office entered into an agreement with Shakopee Dodge that has reformed its deceptive practice in the sale of VIN-etching product and has required the company to make refunds of approximately \$325 each to hundreds of consumers. The office also filed a lawsuit against Continental Motors for pervasive fraud in the sale of used cars. The lawsuit alleges, among other things, that Continental sold cars by misrepresenting the condition of the cars, some of which were found substantially impaired within hours or days of purchase by the consumer. The office settled allegations against University Auto related to its sale of extended warranty products, and has obtained a fund for restitution to affected consumers. The office obtained over \$800,000 in penalties and other costs from Ford Motor Company and Bridgestone/Firestone as a result of their conduct related to rollovers of SUVs.

- *Abusive Debt Collection.* As the result of a high number of complaints by Minnesota consumers, the office sued Cross Country Bank for its abusive debt collection practices. Cross Country harassed numerous consumers with repeated, intrusive phone calls and abusive language, including calling on holidays and improperly communicating financial information to employers. The office is seeking a temporary injunction against the company. The office also completed its lawsuit against Associated Financial Services of St. Cloud, obtaining restitution for numerous consumers and a \$60,000 penalty from the company and its principal officers.

- *Travel Clubs.* The office successfully completed a lawsuit against Vacation Galleria, a seller of costly travel clubs that offered little or no benefit to consumers. The settlement ending the suit prohibits the company and its principal officers from selling merchandise in Minnesota for ten years and provides for restitution of \$250,000 to Minnesota consumers. The office also intervened in a federal court action involving Big Dreams, a Minnesota travel service that defrauded consumers of payments for travel services. The office helped to obtain an Order of Restitution for hundreds of consumers. The office assisted in a successful bipartisan effort to enact legislation to provide protection for future purchasers of travel clubs sold in Minnesota.

- *Small Business Fraud.* The office continued its efforts to protect small businesses from fraud. The office filed suit against Yellow Pages Plus and obtained a temporary restraining order against the company's deceptive use of invoices. The office obtained full refunds in the amount of \$241 for each of the 163 businesses and non-profit organizations that were deceived by the solicitation, and obtained civil penalties from the company. The office also obtained an injunction against Promotion Sora Plus, a Canadian company that targeted small business owners to sell advertising in a "Shopper's Guide" by misrepresenting its relationship with Super One Foods, a local grocery store.

- *College Aid Services.* The office sued and obtained a court order against a seller of college financial aid services, CFAS, Inc. The office then obtained a settlement of the matter that included injunctive relief, a \$25,000 payment to the State and restitution to affected consumers through arbitration.
- *Deceptive Sales Practices.* The office successfully obtained an order compelling Menard, Inc., to provide records regarding its sale of mulch tainted with arsenic, a known carcinogen. The office continues to investigate Menards' use of arsenic treated lumber in a consumer mulch product that the company advertised as "ideal for playgrounds," and for which the company failed to disclose the presence of the carcinogen. The office also filed suit against Radiant Telecom for deceptive advertisements for pre-paid phone cards. Radiant advertised its "Penny-A-Minute" cards without disclosing the substantial fees which made it impossible for consumers to obtain a rate anywhere near one cent per minute for calls made. The company paid over \$65,000 in penalties and costs and agreed to reform its advertising practices.
- *Protection of Tenants.* The State filed suit in Anoka County District Court against Northtown Village, owner of an apartment complex, for violating state law requiring fair utility charges to tenants of multi-housing units. Northtown charged monthly service charges and other fees unrelated to the tenants' use of water. The office successfully negotiated a resolution of the suit in which Northtown Village agreed to cease such charges and pay a civil penalty.

In addition to its law enforcement actions, the Consumer Enforcement Division acts to educate citizens about their legal rights. In the last year the Division has distributed brochures on issues such as home and car buying, managed health care, privacy and consumer credit. The division also issues warnings about new scams targeted at Minnesota consumers. The educational efforts of the division help to warn consumers about fraud and protect them from becoming victims or having to become parties to expensive litigation.

CONSUMER SERVICES DIVISION

The Consumer Services Division attempts to assist the citizens who contact it each year in a timely, courteous and responsive manner. The division handles approximately 200,000 calls from citizens each year.

In addition, the division responds to approximately 25,000 written complaints and inquiries each year. In fiscal year 2003 the division recovered over \$11 million for Minnesota consumers.

Examples of the types of mediations handled by the division included:

- A caller stated that she had entered into a contract with a home improvement company for window replacements in the amount of \$13,981. The contract contained a penalty of 25 percent if the consumer canceled the contract after a three-day rescission period, but also provided that the contract would be void "if

financing does not go through.” The consumer ultimately was unable to obtain financing. The business refused to honor the amended contract and sent the consumer a demand for \$3,500, or 25 percent of the contracted amount. After the division pointed this provision out to the company, it rescinded the \$3,500 penalty.

- A citizen requested the division’s assistance in resolving a 401k account complaint. The citizen’s wife had recently passed away, and he had incurred medical and funeral expenses. Although his expenses appeared to qualify as one of the three circumstances for which he could access a hardship withdrawal from his 401k plan, the citizen’s withdrawal request was denied by the investment firm. The citizen’s employer and labor representative were unsuccessful in their attempts to assist him in obtaining the hardship withdrawal. Through the assistance of the division, the investment firm agreed to allow the citizen to access approximately \$10,000 as a non-repayable hardship withdrawal from his 401k account.
- The division received a complaint from a consumer who had individual health insurance coverage that included prescription drug benefits. The consumer had been receiving prescription drug benefits for twenty years, but the consumer was suddenly told that her prescription drugs would not be covered. After the division contacted the insurer, it reinstated the consumer’s prescription drug benefits.
- The division was contacted by the manager of a convenience store that was also a Western Union agency. The manager believed an elderly customer was wiring money to a sweepstakes scam. The store employee stated the man had wired \$3,600 on two previous visits and believed he was the winner of the Canadian Sweepstakes and wanted to wire more money. The division representative requested to speak to the man. The staff explained the fraudulent nature of the sweepstakes and warned him of possible calls in the future claiming they would get his money back for a fee. The division then reported the incident to the appropriate Canadian agency.
- A collection agency had accused a consumer of tendering a bad check for \$44.50. The collection agency maintained the consumer was guilty of criminal conduct and demanded \$175.40. The consumer claimed no knowledge of the check in question, which was allegedly written in 1998. The division made numerous calls and sent repeated correspondence requesting proof of criminal conduct and a copy of the check in question. The collection agency finally provided a copy of the check. The check was not written by the consumer. The collection agency admitted it had contacted the wrong person and ceased collection activity.

Through its efforts, the division often eliminates the need for costly and time-consuming litigation for both sides of a transaction. An incalculable amount of economic loss is prevented by advice given to citizens who contact this Office.

COMMERCE DIVISION

The Commerce Division provides advice and representation to the Minnesota Department of Commerce (Commerce), which is charged with regulating financial services industries in Minnesota, including insurance, banks and other financial institutions, securities, mortgage lending, real estate and building contractors.¹ The division also provides advice and representation to the Petroleum Release Tank Compensation Board (Petrofund), which is administered by the Department of Commerce.

In 2002-2003, the division handled numerous contested cases for Commerce involving disciplinary action against licensees. As a result, the division obtained over \$450,000 in civil penalties and settlements. The division also handled hundreds of district court claims against Commerce's building contractor recovery fund.

During 2002-2003, the division handled a number of important cases for Commerce including the following:

- *Credit Insurance-related Litigation.* The division handled, and continues to handle, a number of cases against credit insurers and retailers that fraudulently issued credit insurance to Minnesotans. The division also commenced several actions to withdraw approval of credit insurance rates currently in use by a number of companies.
- *In the Matter of the Insurance License of State Farm Mutual Automobile Insurance Company.* The division represented the Department in a case involving several thousand violations of the Unfair Claims Practices Act in State Farm's handling of auto glass claims. Commerce settled this case by Consent Order, whereby, State Farm agreed to engage in a competitive bid process for auto glass pricing in the future and paid \$650,000 in restitution, penalties and costs.
- *State Farm Insurance-Examination Issues.* This division assisted Commerce in settling issues arising from two examinations involving: (1) State Farm's mishandling of personal injury claims and independent medical examinations and (2) State Farm's Utilities Rating Plan. As part of the settlement, State Farm agreed to restructure the way it handles personal injury claims to ensure that the medical examinations are truly independent and paid the State \$500,000 in civil penalties and investigative costs. With regard to its Utilities Rating Plan, State Farm agreed to suspend its use of its Utilities Rating Plan to surcharge homeowners with older utilities and paid a \$75,000 civil penalty.

¹ The Commerce Department also regulates telecommunications and energy providers, as a result of the merger between the Commerce Department and the Department of Public Service. The Telecommunications Division handles representation of the department with respect to telecommunications and energy issues.

- *In the Matter of the Insurance Rate Filings of Encompass Insurance Company for Glens Falls Insurance Company and Kansas City Fire & Marine Insurance Company.* The division represented Commerce in an administrative action to determine whether three rate filings requested excessive rate increases. This division represented Commerce at an administrative hearing where the judge ruled in Commerce's favor. Commerce settled this matter and limited the increases to 39 percent and 34 percent in 2002 and 2003, respectively, rather than the 98.6 percent and 72 percent requested by the companies. The insurance companies reimbursed the State \$20,000 for the entire cost of its action.
- *Liquidation of Eagle Fraternal life Insurance Co.* The division represented the Commissioner in district court proceedings to place this company into receivership and liquidate its assets. As a result of the division's work to obtain the necessary district court orders, existing policyholders' insurance contracts were transferred to another organization without any interruption in coverage or change in benefits. The liquidation is in the process of being wound up and dismissed.
- *Disciplinary Actions Against Mortgage Originators.* The division commenced contested case proceedings against several mortgage originators who were submitting fraudulent mortgage applications to lenders. These cases resulted in \$5,000,000 in civil penalties as well as revocation.
- *Petrofund Rulemaking.* The division assisted the Petrofund staff and Board in promulgating new rules governing the reimbursement process. The new rules, which have been approved by all necessary authorities, provide for a uniform reimbursement system yet retain the flexibility to appropriately address unique clean-up situations.
- *In the Matter of the Residential Building Contractor License of J.T. Smedberg and Associates, Inc.* The division represented Commerce in a matter involving a building contractor who failed to pay several suppliers and subcontractors, resulting in mechanics' liens being filed against several homeowners. The Commissioner revoked the building contractor's license and imposed a \$150,000 civil penalty.

CHARITIES DIVISION

Non-profit organizations are unique in that, unlike for-profit corporations, non-profits do not answer to shareholders. The oversight and regulation of non-profit organizations in Minnesota is charged to the Attorney General's Office through common law and in Chapters 309, 317A and 501B of Minnesota Statutes.

Through the reporting and registration requirements for charitable organizations and professional fundraisers, the Charities Division performs the function of ensuring public accountability of these organizations. In the last fiscal year, the division generated over

\$375,000 in registration fees remitted to the general fund. Currently, the division maintains public registration information for 6,095 charitable organizations, 2,437 charitable trusts, and 227 professional fundraisers. Through the use of both a public file room and the Charities Division's website, the division makes available detailed financial and other information about charitable organizations and professional fundraisers, which any member of the public may access. In December 2002, the office published a report entitled "Giving Makes a Difference," which provided information about some of the most frequently asked-about organizations.

The availability of such information about charitable organizations sharply increases their accountability to the public, and allows any prospective donor to fully and completely understand both the charitable purposes of an organization and its financial condition. The Charities Division, through its extensive knowledge of the non-profit area, is also able to provide significant assistance to Minnesota citizens who frequently call the Attorney General's Office with questions relating to the organization, structure, mission, and governance of non-profit organizations. The division also responds to numerous complaints concerning charitable solicitations, often contacting the organization to directly address any problems with solicitations and/or providing the complainant with specific information about the organization in question.

In addition to citizen assistance, the Charities Division also participates in programs designed to educate and inform the Minnesota non-profit community. Examples include collaboration with the Internal Revenue Service, the National Association of State Charities Officials, the Minnesota Council of Nonprofits and the Charities Review Council on improving the reliability and accuracy of financial reporting and participation in workshops designed for newly created nonprofits.

The Charities Division enforces the laws applicable to non-profit organizations in Minnesota. By statute, the office receives notice of certain trust and probate matters filed in the district courts which involve charitable assets or charitable beneficiaries. Frequently the office becomes involved in those matters, representing the interests of the charitable beneficiaries and acting to protect the charitable assets. Through the enforcement of the laws governing non-profit organizations, the division is able to help combat fraudulent charitable solicitations, and hold non-profit organizations accountable to the public for how they raise, manage and spend charitable assets. Several examples of matters the Charities Division has handled in the past year include the following:

- *HealthPartners.* Pursuant to the Attorney General's common law and statutory authority to inspect the books and records of charitable and non-profit organizations, the Attorney General's Office undertook a compliance review of HealthPartners, which concluded in January, 2003. The office issued public reports concerning its findings in the areas of Executive Compensation, Travel and Entertainment, and Consulting Expenses. Pursuant to its authority to take action to ensure the proper administration of charitable assets, the office filed a petition to appoint administrators of HealthPartners so that its governance failures could be properly addressed. In May, 2003 the office and HealthPartners reached a settlement whereby Glen Taylor was appointed by the District Court as a Special Administrator of HealthPartners.

- *State v. Children's United Relief Effort.* In April, 2003 the Office filed a lawsuit against Children's United Relief Effort ("C.U.R.E.") and its two officers alleging that the organization had engaged in charitable solicitation fraud. Specifically, the office alleged that C.U.R.E. was not in fact a charity and that thousands of dollars had been donated by Minnesotans based upon false representations that the donations would benefit children in need. In May, 2003 the District Court granted the State's Motion for Injunctive Relief and ordered C.U.R.E. to cease all solicitation activities and account for the funds it received.
- *Urban Hope Ministries.* Following a regular review of public information filed with the office, the Charities Division undertook a detailed investigation of Urban Hope Ministries, and uncovered serious deficiencies in the areas of corporate governance, internal financial controls and compliance with state registration requirements. The division's investigation also uncovered evidence suggesting that the organization's charitable assets were being diverted to benefit private individuals. The office resolved this matter by entering into an Assurance of Discontinuance with the organization that required the repayment of over \$30,000, the establishment of a new board of directors and the adoption of specific corporate governance policies and internal financial controls.

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APPENDIX A: SERVICE HOURS
By Agency or Political Subdivision for FY 2003

Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
Partner Agencies				
Administration--Risk Management		2,593.0		\$ 211,678.40
AURI		2.2		\$ 202.40
Corrections (3)	2,569.6	1,685.1	\$ 195,900.00	\$ 123,176.80
Education Department (3)	2,989.0	1,769.8	\$ 275,000.00	\$ 160,718.40
Health	7,652.0	6,942.4	\$ 650,000.00	\$ 616,002.80
Higher Education Services Office (3)	50.0	33.5	\$ 4,600.00	\$ 3,082.00
Housing Finance	5,250.0	5,583.3	\$ 483,000.00	\$ 513,588.00
Human Services	23,987.0	23,801.9	\$ 2,100,750.00	\$ 2,103,468.40
Iron Range Resources & Rehabilitation Board (3)	2,250.0	2,250.0	\$ 207,000.00	\$ 207,000.00
Medical Practices Board	13,195.0	12,063.5	\$ 936,920.00	\$ 798,031.60
Minnesota State Retirement System		236.3		\$ 21,739.60
MnSCU	17,600.0	13,824.4	\$ 1,498,600.00	\$ 1,181,967.20
Natural Resources	17,550.0	14,791.9	\$ 1,515,600.00	\$ 1,258,334.00
Petro Board	1,100.0	939.5	\$ 101,200.00	\$ 86,408.80
Pollution Control	19,527.0	20,531.9	\$ 1,742,484.00	\$ 1,835,366.80
Public Employees Retirement Association		627.8		\$ 57,736.00
Public Safety (3)	1,500.0	1,500.0	\$ 138,000.00	\$ 138,000.00
Teachers Retirement Association		310.4		\$ 28,542.40
Transportation	24,582.0	26,289.6	\$ 2,083,920.00	\$ 2,246,286.00
TOTAL PARTNER AGENCIES	139,801.6	135,776.5	11,932,974.0	\$ 11,591,329.60
Specialized Boards				
Accountancy Board		235.3		\$ 20,520.80
Agricultural Chemical Response Comp. Board		31.7		\$ 2,916.40
Animal Health Board		89.4		\$ 7,350.00
Architecture Board		245.0		\$ 20,992.00
Assessors Board		3.9		\$ 358.80
Barber Board		69.9		\$ 5,570.40
Client Security Board		344.8		\$ 25,284.80
Crime Victims Reparations Board		141.2		\$ 11,298.40
Electricity Board		307.5		\$ 27,699.60
Land Exchange Board		8.8		\$ 809.60
Peace Officers Standards and Training Board		165.5		\$ 14,236.00
Private Detective Board		180.9		\$ 16,642.80
School Administrators Board		237.0		\$ 21,548.40
State Fair Board		285.3		\$ 26,049.60
State Investment Board		354.3		\$ 31,126.80
Teaching Board		1,105.2		\$ 98,056.80
Zoological Board		82.7		\$ 6,838.00
SUBTOTAL		3,888.4		\$ 337,299.20
Health Boards				
Chiropractic Board		3,627.6		\$ 282,439.20
Dentistry Board		2,615.9		\$ 184,052.80
Dietetics & Nutrition Practice Board		17.9		\$ 1,459.60
Emergency Medical Services Regulatory Board		601.6		\$ 54,544.40
Health Professionals Services Program		31.3		\$ 2,879.60
Marriage & Family Therapy Board		200.0		\$ 11,480.80
Nursing Board		7,662.6		\$ 547,196.40
Nursing Home Administrators Board		31.0		\$ 2,405.60
Optometry Board		23.9		\$ 2,029.60
Pharmacy Board		640.4		\$ 52,238.80
Physical Therapy Board		544.4		\$ 38,449.60
Podiatry Board		235.5		\$ 18,922.80
Psychology Board		3,822.9		\$ 265,450.80
Social Work Board		848.2		\$ 58,580.00
Veterinary Medicine Board		1,412.7		\$ 106,510.80
SUBTOTAL		22,315.9		\$ 1,628,640.80
Higher Education				
Higher Education Facilities Authority		6.8		\$ 625.60
Higher Education Services Office (3)		459.9		\$ 40,510.80
SUBTOTAL		466.7		\$ 41,136.40

APPENDIX A: SERVICE HOURS				
By Agency or Political Subdivision for FY 2003				
Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
<i>Other Executive Branch Agencies</i>				
Administration Department		2,634.6		\$ 220,527.60
Administrative Hearings Office		685.9		\$ 57,144.80
Agriculture Department		1,000.6		\$ 90,971.60
Amateur Sports Commission		22.3		\$ 2,008.40
Archaeologist Office		46.2		\$ 4,250.40
Black Minnesotans Council		3.8		\$ 349.60
Campaign Finance Board		1,911.1		\$ 153,094.40
Capitol Area Architectural Planning Board		48.0		\$ 4,398.00
Center for Arts Education		757.5		\$ 63,580.80
Chicano-Latino People Affairs Council		6.8		\$ 625.60
Commerce Department		5,707.7		\$ 522,314.80
Continuing Legal Education Board		186.9		\$ 15,967.20
Corrections Department (3)		5,380.4		\$ 441,000.00
Corrections Department/Community Notification		1,369.1		\$ 103,658.80
Disability Council		5.9		\$ 539.20
Economic Security Department		1,326.0		\$ 96,997.20
Education Department (3)		1,010.9		\$ 93,000.00
Employee Relations Department		477.6		\$ 43,939.20
Environmental Assistance Office		442.6		\$ 40,719.20
Environmental Quality Board		608.5		\$ 55,946.00
Executive Council		6.3		\$ 525.60
Faribault Academies		13.4		\$ 1,232.80
Finance		325.8		\$ 29,152.80
Gambling Control Board		931.0		\$ 85,652.00
Governor's Office		800.1		\$ 69,674.40
Historical Society		13.8		\$ 1,197.60
Human Rights Department		2,140.4		\$ 179,377.60
Indian Affairs Council		192.7		\$ 16,727.60
Infection Control Fund Board		3.0		\$ 240.00
Iron Range Resources & Rehabilitation (3)		2,260.6		\$ 157,568.00
Judiciary Courts		929.5		\$ 83,588.00
Labor and Industry Department		4,163.8		\$ 369,375.20
Law Examiner's Board		295.0		\$ 26,934.80
Lawyer's Professional Responsibility Board		71.5		\$ 6,578.00
Legal Certification Board		5.0		\$ 460.00
Legislative Auditor		19.6		\$ 1,803.20
Legislature		177.5		\$ 15,322.00
Mediation Services Bureau		13.8		\$ 1,161.60
Military Affairs Department		169.7		\$ 14,791.60
Minnesota Commission Serving Deaf & Hard of Hearing People		10.7		\$ 984.40
Minnesota Gang Strike Force		1,038.6		\$ 95,551.20
Minnesota Racing Commission		447.2		\$ 41,135.20
Ombudsman for Corrections		1.6		\$ 147.20
Ombudsman for Mental Health/Retardation Office		15.7		\$ 1,422.80
Ombudsperson for Families		14.7		\$ 1,352.40
OSHA Review Board		11.4		\$ 1,048.80
Public Defender, Local		247.2		\$ 21,982.80
Public Defender, State		3.0		\$ 258.00
Public Safety Department (3)		30,634.7		\$ 2,533,888.00
Public Service Department		10,102.0		\$ 929,384.00
Public Utilities Commission		2,706.6		\$ 248,996.40
Revenue Department		10,410.4		\$ 930,951.20
Rural Finance Authority		30.7		\$ 2,824.40
Secretary of State		418.3		\$ 36,903.20
Sentencing Guidelines Commission		45.5		\$ 4,186.00
State Arts Board		50.7		\$ 4,653.60
State Auditor		50.1		\$ 4,602.00
State Lottery		135.0		\$ 12,420.00
State Treasurer		60.9		\$ 5,296.80
Strategic and Long Range Planning Office		74.1		\$ 6,784.80
Telecommunications Access for Communications Impaired Persons Bd		17.3		\$ 1,591.60
Trade & Economic Development Department		1,671.7		\$ 137,405.60
Veterans Affairs Department		26.3		\$ 2,412.40
Veterans Homes Board		1,127.6		\$ 101,705.20
Water & Soil Resources Board		1,160.2		\$ 106,101.20
SUBTOTAL		96,677.1		\$ 8,306,384.80

APPENDIX A: SERVICE HOURS
By Agency or Political Subdivision for FY 2003

Agency/Political Subdivision	Estimated Service Hours (1)	Actual Service Hours	Estimated Expenditures	Actual Expenditures (2)
OTHER GOVERNMENT				
Federal Government		1.6		\$ 147.20
Local: Blue Earth County Attorney		4.7		\$ 432.40
Local: Carver County Attorney		165.0		\$ 15,036.00
Local: Cass County Attorney		14.9		\$ 1,370.80
Local: Chippewa County Attorney		1,906.1		\$ 149,826.40
Local: Clay County Attorney		1.0		\$ 92.00
Local: Clearwater County Attorney		48.7		\$ 4,480.40
Local: Crow Wing County Attorney		595.1		\$ 47,830.00
Local: Dakota County Attorney		15.9		\$ 1,462.80
Local: Dodge County Attorney		38.2		\$ 3,467.60
Local: Fillmore County Attorney		602.2		\$ 51,129.20
Local: Hennepin County Attorney		152.0		\$ 13,768.00
Local: Hubbard County Attorney		195.8		\$ 15,151.60
Local: Jackson County Attorney		11.4		\$ 1,048.80
Local: Kanabec County Attorney		1,149.9		\$ 92,524.80
Local: Kandiyohi County Attorney		158.7		\$ 11,911.20
Local: Lake County Attorney		22.2		\$ 2,042.40
Local: Le Sueur County Attorney		19.0		\$ 1,748.00
Local: McLeod County Attorney		424.5		\$ 30,648.00
Local: Mahnommen County Attorney		549.0		\$ 45,662.40
Local: Marshall County Attorney		65.0		\$ 5,980.00
Local: Mille Lacs County Attorney		338.2		\$ 27,734.00
Local: Olmsted County Attorney		2.7		\$ 248.40
Local: Otter Tail County Attorney		126.5		\$ 11,566.00
Local: Pine County Attorney		56.2		\$ 5,170.40
Local: Polk County Attorney		569.4		\$ 43,748.40
Local: Rice County Attorney		252.1		\$ 16,166.00
Local: Rock County Attorney		3.0		\$ 276.00
Local: Roseau County Attorney		554.0		\$ 42,320.80
Local: St. Louis County Attorney		15.0		\$ 1,380.00
Local: Sibley County Attorney		3.0		\$ 276.00
Local: Todd County Attorney		570.7		\$ 44,350.40
Local: Wadena County Attorney		8.5		\$ 782.00
Local: Waseca County Attorney		266.6		\$ 22,115.20
Local: Various Cities		217.0		\$ 19,964.00
Local: Various School Districts		80.0		\$ 7,360.00
Local: Townships/Associations/Other Local Governments		66.5		\$ 6,118.00
Local: Various Counties Psychopathic Personalities Commitments		3,981.9		\$ 289,190.40
Various Counties/Criminal Appeals		13,745.4		\$ 1,183,533.60
SUBTOTAL		26,996.0		\$ 2,217,912.40
TOTAL NON-PARTNER AGENCIES SUBDIVISIONS		150,344.1		\$ 12,531,373.60
TOTAL PARTNER/SEMI-PARTNER AGENCIES (from page A-1)		135,776.5		\$ 11,591,329.60
TOTAL NON-PARTNER AGENCIES SUBDIVISIONS		150,344.1		\$ 12,531,373.60
GRAND TOTAL HOURS/EXPENDITURES (4)		286,120.6		\$ 24,122,703.20
Notes: (1) The projected hours of service were agreed upon mutually by the partner agencies and the AGO. Actual hours may reflect a different mix of attorney and legal assistant hours than projected originally. (2) Billing rates: Attorney \$92.00 and Legal Assistant \$56.00. (3) A number of agencies signed agreements for a portion of their legal services. (4) Not all AGO expenditures are included in M.S. 8.15 reporting. This amount does not include Civil Enforcement and Medicaid Fraud legal services.				

APPENDIX B: SPECIAL ATTORNEY EXPENDITURES	
FOR FY 2003, BY AGENCY	
AGENCY	Amount
Agricultural and Economic Development Board	\$ 97,169.07
Corrections	\$ 80.00
Employee Relations	\$ 295,586.20
Finance	\$ 42,098.73
Higher Education Facilities Authority	\$ 238,554.67
Higher Education Services Office	\$ 33,375.10
Housing Finance Agency	\$ 212,669.10
Human Services	\$ 789.43
IRRRA	\$ 1,793.21
IRRRB	\$ 170.19
Labor and Industry	\$ 19,194.13
MnSCU	\$ 82,538.48
Rural Finance Authority	\$ 10,999.43
Supreme Court	\$ 128,952.29
Trade and Economic Development	\$ 118,313.77
TOTAL	\$ 1,282,283.80

NOTE: Certain bond and workers compensation fund counsel are paid from proceeds.

