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STATE OF MINNESOTA OFFICE OF THE ATTORNEY GENERAL

ANNUAL REPORT REQUIRED BY

**Minnesota Statute Sections 8.15
Subdivision 4 (2010)**

Fiscal Year 2011

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INTRODUCTION

This report is intended to fulfill the requirements of Minnesota Statutes Section 8.15, Subdivision 4, for Fiscal Year 2011 (FY 11).

The Attorney General's Office (AGO) is organized into five sections under the direction of deputy attorneys general: Agency Services, Government Services, Legal Services, Civil Law and Solicitor General. This report contains brief summaries of the services provided to state agencies and other AGO clients by these sections.

AGENCY SERVICES

ADMINISTRATIVE LAW

The Administrative Law Division provides legal representation to the departments of Administration, Agriculture, Commerce, Minnesota Management and Budget, Labor and Industry, and Natural Resources, as well as the Housing Finance Agency, Iron Range Resources, Minnesota State Board of Investment, Secretary of State, State Auditor, Board of Water and Soil Resources and many other smaller boards, agencies and commissions. The Division also provides legal representation to the Minnesota State Colleges and Universities System and other state agencies in contract, lease and other transactional matters. The Division's work during FY11 included:

- Provided advice to State agency clients on legal issues related to state government operations; assisted in drafting and revising leases, licenses and contracts and registered trademarks on behalf of a number of state agencies.
- Advised the Department of Administration on various real estate matters.
- Advised the Office of Administrative Hearings regarding municipal boundary adjustment matters and enforcement of the Fair Campaign Practices Act.
- Provided legal representation to and/or advised the Minnesota Department of Agriculture in various matters, including food safety violations, pesticide application violations, data practices litigation, sanctions for a major ammonia spill, waste pesticide collection, compliance with new restrictions on the use of pesticides near water, the Emerald Ash Borer quarantine and the Dupont Impreliis pesticide recall.
- Provided legal representation to the Campaign Finance and Public Disclosure Board in four court cases to enforce lobbyist and campaign finance laws.
- Advised and provided legal representation to the Department of Commerce, which is charged with regulating financial services industries in Minnesota including insurance, banks and other financial institutions, securities, mortgage lending, and the real estate industry. Helped resolve 30 contested cases for Commerce involving disciplinary action against licensees; obtained \$1,279,000 in civil penalties and settlements, including disciplinary actions against mortgage originators, real estate appraisers, real estate salespersons, collections agencies, securities salespersons, insurance salespersons and notaries public. Fifty-one contested cases remain active. Provided legal advice to Commerce and drafted pleadings that stipulated to payment of \$447,101 on five applications to the Real Estate Education, Research and Recovery Fund, as well as defended the fund against ineligible and/or overstated claims, saving the State \$314,288.

- Advised the Housing Finance Agency (“HFA”) regarding numerous loans to preserve low-income housing. Provided client advice on aspects of HFA activity, including compliance with federal, state and local laws and regulations. Advised HFA on multi-family and single-family loan program requirements. Represented HFA in litigation related to real estate in which HFA has a mortgage and HFA is named as a defendant. Initiated cases against loan originators for breach of contract claims.
- Advised and provided legal representation to the Department of Labor and Industry (“DLI”), including the Construction Codes and Licensing Division, including the Contractor’s Recovery Fund. Handled numerous disciplinary actions against residential building contractors, remodelers, roofers, and manufactured home installers for violations, including unlicensed building contractor activity, failure to satisfy judgments, failure to complete jobs and code violations. Brought to resolution 34 contested cases for DLI against licensed and unlicensed builders and obtained over \$52,000 in civil penalties and settlements. Nineteen contested cases remain active for DLI. Provided legal advice to DLI, appeared in district court, drafted pleadings that stipulated to payment of \$869,251 to victimized homeowners on 30 applications to the Contractor’s Recovery Fund, as well as defended the fund against ineligible or overstated claims, saving the State \$221,077.¹
- Advised state agencies regarding projects funded with general obligation bonds, represented the Commissioner of MMB in district court actions with respect to claims made against the Torrens Assurance Fund, which provides compensation to those who have suffered a loss or damage due to an error made by the examiner or registrar of titles and facilitated bond issuances and refinancing in over \$3.1 billion in general obligation and revenue bonds.
- Advised MnSCU regarding a variety of real estate construction, contract, intellectual property and licensing matters and drafted licensing and services-level agreements for marketing state-owned software.
- Provided legal services to the Minnesota Department of Natural Resources (“DNR”) on a wide variety of Indian law matters including: resource management and harvest issues under the 1855 Treaty (White Earth/Leech Lake), continued negotiation of Phase II of the 1854 Treaty case (Fond du Lac), White Earth settlement land transfers and provided advice on issues of tribal sovereignty and state-tribal jurisdiction. Successfully defended a tribal challenge to the State’s implementation of the White Earth Land Settlement Agreement in an administrative proceeding before the U.S. Department of Interior, Bureau of Indian Affairs.
- Provided legal representation to DNR in connection with a petition to the U.S. Fish and Wildlife Service (“USFWS”) for the removal of the gray wolf from the Federal Endangered Species list in Minnesota and represented DNR on an amicus in a legal challenge brought under the federal Endangered Species Act against the USFWS to force delisting of the wolf.

¹ The actual payment amount will be reduced by the Contractor’s Recovery Fund due to prorating claims to the maximum \$75,000 per licensee limit.

- Provided legal representation to DNR in state district court against takings and trespass claims and subsequent condemnation proceedings related to drainage ditch repairs undertaken by a ditch authority/watershed district resulting in the draining of public water and its subsequent restoration pursuant to a DNR restoration order. Provided legal representation to DNR before the Minnesota Court of Appeals in an inverse condemnation action seeking damages of \$900,000 and reconstruction of a dam, preservation of lake level, involving possible flooding of agricultural land and, in a declaratory judgment action, to determine DNR's rights to access and repair a dam.
- Provided legal representation to the DNR in an administrative appeal challenging the issuance of a public water permit to MnDOT for load tests associated with the proposed construction of the Stillwater bridge over the St. Croix River.
- Provided legal representation to DNR in numerous administrative level, district court, and court of appeals matters regarding maintenance and repair of drainage ditches, issuance of permits for work in public waters, enforcement of lakeshore zoning regulations, the issuance of aquatic plan management permits, restoration of waters and wetlands, the Minnesota Environmental Rights Act, and quiet title actions.
- Provided legal representation to DNR on various real estate title matters including tax forfeitures, probate proceeding, trusts, life estates, adverse possession, judgments, liens, deed restrictions, declarations and protective covenants.
- Provided legal representation to DNR forestry division on various matters; including action for TRO by loggers arising in connection with the State shutdown.
- Provided legal representation to DNR Enforcement on a variety of issues, including WCA proceedings in district court and administrative proceedings before BWSR.
- Assisted DNR with approximately 144 real estate acquisitions totaling over \$71 million and involving approximately 255,789 acres of land. One of these acquisitions involved acquiring a conservation easement from Blandin Paper Company, protecting 187,000 acres of land. Prepared title opinions and drafted deeds with respect to approximately 16 land exchanges.
- Provided legal representation to the Secretary of State in numerous election, corporate, and trade name registration matters, including expedited matters in the Minnesota Supreme Court and the U.S. District Court relating to elections and appointment of Supreme Court justices.
- Provided legal representation to the Land Exchange Board.
- Provided legal representation to the Minnesota State Board of Investment in connection with various investment management agreements and alternative investments.
- Provided legal representation to numerous small boards and agencies and represented those boards in 23 contested matters.
- Provided legal representation to the Board of Water and Soil Resources ("BWSR") on real estate issues related to 269 easements, the Wetland Conservation Act program, its administrative penalty program, rules and many other matters. Defended BWSR in two appeals to the Minnesota Court of Appeals, one challenging approval of a watershed management plan and one concerning a violation of the Wetland Conservation Act.

- Provided legal representation to the Board of Animal Health regarding chronic wasting disease control, bovine tuberculosis control, elk and deer regulation, and inspections.
- Attorneys from various divisions provide legal services to the three statewide pension funds: Teachers Retirement Association (TRA), Minnesota State Retirement System (MSRS), and Public Employees Retirement Association (PERA). In FY11, the attorneys advised the boards about these funds at their meetings. Additional legal advice related to benefits, tax ramifications, and governance issues. The attorneys also represented the funds at contested case hearings and in appeals at the Minnesota Court of Appeals.
- The attorneys successfully defended all three funds in a challenge to the 2010 legislation modifying the cost of living adjustment for state pension plans.
- The attorneys represented PERA in a contested case hearing involving the calculation of employee benefits for pension salary purposes by the City of Duluth. This matter is now before the court of appeals. The attorneys are also representing PERA (as successor to the Minneapolis Employee Retirement Fund (MERF)) in district court to collect overpayments made by MERF to a retiree.

BOARDS AND AGENCIES

The Boards and Agencies Division provides legal representation to the Departments of Corrections, Employment and Economic Security, Health, Human Rights, Labor and Industry, and Veterans Affairs and the Client Security Board.

DEPARTMENT OF CORRECTIONS

Provided a broad range of legal services to the Department of Corrections (DOC) and state correctional facilities. The division successfully defended a high volume of lawsuits brought by inmates against the Department involving complex constitutional issues. For instance, cases litigated in FY11 involved the tension between rights of inmates to practice their religions and the DOC's responsibility for keeping prisons secure. Defended habeas corpus cases in which sex offenders challenged their conditions of supervised release. In FY11, defended more than 80 lawsuits brought by inmates.

MINNESOTA CLIENT SECURITY BOARD

Brought collection actions on behalf of the Minnesota Client Security Board to collect and preserve debt obligations to the Client Security Fund. The Fund reimburses clients who suffer economic loss because of the dishonest conduct of their attorneys.

DEPARTMENT OF EMPLOYMENT AND ECONOMIC SECURITY

Provided advice and representation to the Minnesota Department of Employment and Economic Development (DEED), and participated in bankruptcy proceedings in order to protect the State's interest in collecting reemployment benefits overpayments. In FY11, cases brought by this Office prevented the discharge in bankruptcy of approximately \$900,000 of improperly received benefits.

DEPARTMENT OF HEALTH

Provided legal advice to the Minnesota Department of Health ("MDH") concerning its regulatory responsibilities and represented MDH in litigation and administrative enforcement actions. MDH regulates and oversees a number of different subject areas, including infectious diseases, food-borne illness outbreaks, health care facilities, environmental health hazards, health maintenance organizations (HMOs) and certain health professionals. Advised MDH with regard to legal issues concerning contracts, leases and other transactions.

Specific examples of work for the MDH in FY11 included:

- ***Newborn Screening Program.*** Plaintiffs sued MDH in Hennepin County alleging that MDH's collection, storage and use of blood samples pursuant to the Newborn Screening Program violated Minn. Stat. § 13.386, the genetic privacy law. In August 2010, the court of appeals affirmed the district court's order dismissing the case. The Minnesota Supreme Court granted a petition for further review in the fall of 2010. The case was argued to the supreme court on March 1, 2011.
- ***Licensing Laws Regarding Food, Beverages, Lodging Establishments, Public Pools, and Resorts.*** Provided legal representation to MDH in enforcement proceedings against individuals who operated unlicensed businesses including food and beverage establishments and campgrounds.

A significant amount of work in FY11 involved defending MDH's determinations that individuals or health care facilities violated the Vulnerable Adults Act by neglecting, abusing, or financially exploiting vulnerable adults. In addition, the Division defended MDH decisions 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 home care agencies). Examples of these cases include:

- ***Sexual Abuse of a Vulnerable Adult.*** Provided legal representation to MDH in a case in which a health care worker was found responsible for sexually abusing a resident living in an intermediate care facility for mentally retarded adults. After a hearing, the judge recommended that the finding of sexual abuse be affirmed. The Commissioner adopted the recommendation and affirmed MDH's abuse finding. The matter is currently on appeal to the district court.
- ***Nursing Home Neglect.*** Provided legal representation to MDH in a case in which a nursing assistant was found responsible for neglecting a nursing home resident by failing to follow the resident's care plan while transferring her. The resident fell and fractured her ankle. After a hearing, the judge recommended that the finding of neglect be affirmed. The Commissioner adopted the recommendation and affirmed MDH's neglect finding.
- ***Disqualification Appeal.*** Provided legal representation to MDH in a case in which a health care worker was disqualified after a county determined that she was responsible

for repeated and serious maltreatment of her children. The county determined that the individual had abused one of her children in 2002; had neglected her children twice in 2004 and neglected her children two more times in 2007. After a hearing, the judge and the Commissioner upheld the worker's disqualification and MDH's decision not to set aside the disqualification.

- ***Nursing Home Neglect.*** Provided legal representation to MDH in a case in which a nursing assistant was found responsible for neglecting a nursing home resident by failing to follow the resident's care plan, which called for a two-person assist when transferring the resident from her chair to her bed. The resident suffered a laceration to her leg. After a hearing, the Human Services Judge recommended that the finding of neglect be affirmed. The Commissioner adopted the recommendation and affirmed MDH's neglect finding.
- ***Disqualification Appeal.*** Provided legal representation to MDH in a case in which a health care worker was disqualified based on a preponderance of evidence that he committed an act that meet the definition of domestic abuse with intent to commit bodily harm. After a hearing, the Human Services Judge recommended that the disqualification be upheld but that the disqualification be set aside to allow the appellant to work in certain settings. The Commissioner upheld the disqualification and upheld MDH's decision not to set aside the disqualification.

HUMAN RIGHTS

The division's major human rights activity is the handling of cases forwarded by the Department of Human Rights (MDHR) following a determination that there is probable cause to believe that illegal discriminatory conduct has occurred. Attorneys participated in negotiation and litigation regarding these matters and sought to obtain appropriate monetary and non-monetary relief. Resolved more than 50 cases in FY11. Enforcement efforts resulted in Minnesota and its citizens receiving compensatory and injunctive relief for illegal discriminatory treatment. In FY11, assisted the department in obtaining compensatory relief for Minnesota citizens totaling over \$500,000.

DEPARTMENT OF LABOR AND INDUSTRY

Provided legal advice and representation to the Minnesota Department of Labor and Industry (DLI). In representing DLI, the division engages in litigation to enforce occupational safety and health standards, including cases regarding workplace fatalities. In FY11, the office assisted in resolving approximately 28 OSHA cases and obtaining over \$90,000 in OSHA fines. The division also engages in litigation to enforce Minnesota labor laws, such as the Fair Labor Standards Act, including minimum wage and child labor laws. In addition to fines, the division's litigation and negotiation results in improvements to workplace conditions for Minnesotans.

COMMERCE/UTILITIES

The Commerce/Utilities Division provided legal representation to the Minnesota Department of Commerce ("Commerce") regarding the agency's telecommunications, energy advocacy and facilities permitting responsibilities as well as its Weights and Measures Division. Division attorneys represent Commerce before the Minnesota Public Utilities Commission, Office of Administrative Hearings, federal agencies and state and federal courts. In FY11, the Commerce/Utilities Division provided legal advice and representation to Commerce on issues such as:

TELECOMMUNICATIONS

- **Local Service Competition and Excessive Wholesale Cost/Prices.** Provided litigation assistance to Commerce with respect to claims that CenturyLink (formerly Qwest, which merged with CenturyLink during FY 11) overcharges its competitors under state and federal laws that require former Bell operating companies such as CenturyLink, to lease certain parts of the local phone network to competitors at "reasonable" prices, and other parts of the network at "cost." The litigated issues concerned the Commission's authority, federal preemption of Minnesota statutes, and interpretation and application of state and federal laws on pricing. Other pending cases involve disputes as to CenturyLink's commingling of regulated and non-regulated elements into bundled service packages, the Commission's authority to price these elements, application of pricing methodology, and procedures for implementing the Commission's Orders.
- **Merger/Acquisitions.** Provided legal representation to Commerce in the contested acquisition of Qwest by CenturyLink, and in various proceedings involving competitors' allegations of violations by CenturyLink of the Commission's merger order.
- **Competition-Including Non-price Issues.** Provided legal representation to Commerce in contested case proceedings involving non-price allegations that CenturyLink violated federal and state laws that promote competition in wholesale and retail markets, including failing to provide competitors with access to the CenturyLink network, causing loss of service to competitor's customers, inadequate network interconnection, maintenance and repair and the improper use of Competitive Local Exchange Carriers' (CLECs') customer proprietary information.
- **Interconnection of Voice, Data and Internet Networks.** Provided litigation support to Commerce for a series of proceedings regarding the interplay of the traditional public telephone network and the internet, and the obligations of incumbent telephone companies to competitors that operate networks in which voice and other audio (and video) traffic is terminated to public-switched networks. Other proceedings involved "phantom" traffic to local carriers that fails to identify the originating carrier so that carriers may bill for termination of calls.

- **Price Discrimination and Tariffing Practices.** Provided legal representation to Commerce in actions involving authority of the Commission to enforce statutory tariffing requirements, including Minnesota's statutory prohibitions on illegal price discrimination among competitors.
- **Arbitration of Interconnection Agreements.** Provided legal representation to Commerce in contested case proceedings that concerned disputed interconnection agreements between incumbent carriers (like CenturyLink), and their competitors.
- **Disconnection Petitions.** Assisted Commerce on contested case proceedings involving the disconnection of competing telecommunications carriers for alleged nonpayment of charges, and the companies' responsive claims of CenturyLink anticompetitive conduct.
- **Alternative Form of Regulation ("AFOR") Litigation.** Provided legal representation to Commerce in challenges to Commission authority regarding AFOR plan(s) that purport to preempt Minnesota laws that prohibit anti-competitive and discriminatory conduct.
- **Switched Access Fees and Traffic Pumping Complaints.** Provided legal representation to Commerce in several dockets, in which intrastate long distance carriers, such as Verizon, Sprint and CenturyLink filed complaints requesting that the Commission order local service providers to reduce their access charges to reasonable levels. For example, a pending matter includes allegations that one local carrier uses access fee payments to induce customers to artificially generate access fees from long distance companies.
- **Low Income Telephone Assistance Programs.** Advised Commerce regarding legal issues with respect to the low income programs such as the Telephone Assistance Program, and Linkup.

ENERGY

- **General Rate Increase Requests.** Provided legal representation to Commerce in connection with six general rate increase requests of regulated utilities: three trials were held during FY11; two cases occurred during the fiscal year. Continued to provide post-trial compliance-related advice regarding previous rate increase requests.
- **Route Permitting for High Voltage Electric Transmission Line Construction.** Provided litigation support and post-trial filings for Commerce's Energy Facilities Permitting Staff before the Office of Administrative Hearings and the Commission concerning the contested route permit requests for five CapX high voltage transmission lines: three trials were held during FY11. Assisted Commerce in trial and with post-trial filings as to other contested route permit requests such as a lower voltage line intended to serve planned wind farms, and post-trial filings for matters that were tried the previous fiscal year including a controversial project proposed through south Minneapolis, a request by a municipal public utilities commission for a high voltage transmission line to serve a new mining and steel plant.
- **Site and Permits for New Wind Turbines.** Provided litigation support and post-trial advice concerning site permits for new wind farms.

- **Certificates of Need and Route Permitting for Underground Crude Oil Pipeline Construction.** Provided legal assistance regarding complaints and permit compliance matters regarding the Southern Lights Project involving a proposed 108-mile crude oil pipeline by Enbridge Energy from Minnesota's North Dakota border to Clearbrook, Minnesota, which is the location of Enbridge's existing tank farm and terminal facility. Provided similar advice related to on-going construction, and preliminary assistance with routing issues regarding two related pipeline projects.
- **Routing and Siting Matters.** Provided general legal assistance, including permit amendment issues, to the Energy Facility Permitting staff as to transmission line, pipeline and plant siting and routing matters that do not require a certificate of need from the Commission and do not involve contested proceedings.
- **Carbon Offset Requirements of Chapter 216H.** Provided litigation support regarding the offset of carbon emissions proposed by a regulated utility for its new coal plant located outside the State. The case was rendered moot right before trial due to legislative amendment of Chapter 216H.
- **Advance Determination of Prudence.** Provided preliminary litigation support regarding an electric utility's request for an advance determination of the prudence of major environmental upgrades at a coal-fired generation plant, as allowed by a state statute passed in FY10. The trial of this matter will occur in FY12.
- **Conservation Improvement Plan ("CIP"), Renewable Energy, and Disbursed Renewable Generation Matters.** Provided legal assistance regarding various legal issues statutorily-required utility conservation spending, and renewable energy standards and credits.
- **Energy Assistance Programs.** Provided litigation support, in the form of affirmative motions and response to motions concerning a citizen's appeal to the Office of Administrative Hearings of Commerce's decision denying energy assistance benefits.
- **Weights and Measures Division.** Advised the Weights and Measures Division regarding various legal issues.

REVENUE/SCHOOLS

OVERVIEW

The Revenue/Schools Division provides legal representation to the Minnesota Department of Revenue ("Revenue"). The Division also provides legal representation to several state agencies in a wide range of bankruptcy matters in Bankruptcy Court. The division provides legal representation to the State's complex and varied educational system, handling most student and some faculty and staff-related matters for the Minnesota State Colleges and Universities ("MnSCU") system of 32 separate campuses. In addition to representing the numerous MnSCU campuses, the Division also provides legal representation to the Minnesota Department of

Education, the Office of Higher Education, and the Perpich Center for Arts Education and the State Academies.

TAX LITIGATION & BANKRUPTCY

In FY 2011, the division opened 118 revenue litigation cases and bankruptcy cases. In FY 2011 the division also resolved and closed 141 revenue litigation cases and bankruptcy cases. In addition, the division handled numerous bankruptcy matters for state agencies other than Revenue. Division attorneys appear in the Minnesota Supreme Court, the Minnesota Court of Appeals, Minnesota Tax Court, state district court, federal district court and the federal appellate court (8th Cir.) and Bankruptcy Court. The majority of new cases involve the State's income and sales taxes including personal liability assessments against corporate officers for corporations' unpaid withholding taxes and sales taxes. The most financially significant individual cases are corporate tax refund claims and challenges to Revenue's assessments of corporate tax ranging in amounts up to \$13 million dollars.

Many of these large bankruptcy cases involved significant state contracts with vendors or service providers who subsequently declare bankruptcy. The division provides legal representation to various state agencies filing claims in bankruptcy court to recover state funds and protect the state's priority of claims.

SIGNIFICANT RESOLVED TAX LITIGATION & BANKRUPTCY CASES:

- **Corporate Tax, Computer Software Corporation.** Obtained a favorable settlement in the Minnesota Tax Court in a suit by a large software corporation which challenged Revenue's denial of its refund claim in which the corporation disputes the statutory interpretation of what constitutes a royalty or a fee under Minnesota law.
- **Sales/Use Tax and Fraud Penalty.** Obtained a favorable judgment in the Minnesota Tax Court against a corporation that challenged Revenue's assessment and imposition of a fraud penalty for filing fraudulent and misleading returns.
- **State's Property Tax Valuation Method, Energy Corporation.** Obtained a favorable judgment in the Minnesota Tax Court in a suit by a large hydro-electric energy facility which challenged the constitutionality of various sections of the state commercial property tax valuation methods. This suit involved overlapping questions of county and state interests and jurisdictions.
- **Sales Tax and Withholding Tax.** Obtained a dismissal in the Minnesota Tax Court in a suit by a large business which challenged Revenue's assessment of over \$250,000.
- **Individual Income Tax, Taxation of Indians on Reservations.** Obtained a favorable ruling in the 8th Circuit Court of Appeals in a declaratory judgment and injunction suit by a tribal member who resides on an Indian reservation in Minnesota but receives income from a pension for work he completed off of the reservation and outside of Minnesota. The taxpayer challenged the state's taxation of the income. The member appealed the District Court's ruling for Revenue and the 8th Circuit Court of Appeals upheld the decision for Revenue.

- **Corporate Tax.** Obtained numerous favorable decisions and assisted in settlements in the Minnesota Tax Court of assessment and collection actions against corporations for unpaid corporate tax of over \$12 million dollars.
- **Sales/Use Tax.** Obtained numerous favorable decisions and assisted in settlements in the Minnesota Tax Court of assessment and collection actions against corporations for unpaid sales/use taxes of over \$1 million dollars.
- **Sales Tax, Officer Liability.** Obtained numerous favorable decisions at the Minnesota Tax Court on motions for summary judgment or after trial affirming Revenue's personal liability assessment of corporate officers for the payment of a corporation's unpaid sales tax of over \$1 Million dollars.
- **Withholding Tax, Officer Liability.** Obtained numerous favorable decisions at the Minnesota Tax Court on summary judgment or after trial affirming Revenue's personal liability assessment of corporate officers for the payment of a corporation's unpaid withholding tax of approximately over \$1 million dollars.
- **Bankruptcy, Fraudulent Chapter 7 Filing of High Income Individual.** Defended Revenue in Bankruptcy Court in an action opposing an individual's fraudulent filing of a Chapter 7 Bankruptcy and the individual's attempt to discharge \$8 million dollars of combined federal and Minnesota state tax liability. Division attorneys worked closely with U.S. Department of Justice attorneys to file objections to the bankruptcy and to conduct discovery of the individual's numerous and complex financial transactions involving various trusts.
- **Tax Protestors.** Obtained several favorable decisions at the Minnesota Supreme Court, federal district court, state district court and the Minnesota Tax Court rejecting claims of tax protestors that their incomes were not subject to Minnesota income tax or concluding that protestors could not shield income from state taxation by shifting it into sham trusts or other sham transactions.

SIGNIFICANT PENDING REVENUE & BANKRUPTCY CASES:

- **Sales Tax, Electric Cooperatives.** Defended Revenue in the Minnesota Tax Court in thirteen (13) separate suits filed in Minnesota Tax Court by 13 electric cooperatives (co-ops) in which the co-ops challenge the assessment of approximately \$4.5 Million in sales tax.
- **Corporate Tax, Tobacco Corporation.** Defended Revenue in the Minnesota Tax Court in a suit by a large multi-national tobacco corporation which challenges Revenue's calculation of its taxable income. The assessment at issue is over \$3 Million, plus over a \$1 Million in a denied refund claim. The resolution of the legal issues in this case have a significant financial impact on the state because of the precedential value for other corporate taxpayers.
- **State's Tobacco Health Impact Fee on Sale of Tobacco Products.** Defended Revenue in the Minnesota Tax Court in a suit by a large tobacco corporation which challenged the statutory interpretation of Minnesota statutes that determine what the wholesale price is of a

tobacco item. The amount at issue in this appeal was over \$400,000, but the outcome of the statutory construction issue affects all other tobacco distributors and thus will have a significant financial impact on Minnesota.

- **Officer Liability Assessment against Corporate Officers.** Defended Revenue in the Minnesota Tax Court in an appeal by two officers of a large gasoline franchise contesting Revenue's assessment of over \$ 3 Million of the franchise's unpaid sales and petroleum tax.
- **State's Property Tax Valuation Method, Interstate Utility Pipeline.** Defended Revenue in the Minnesota Tax Court in a suit by two large interstate natural gas pipeline companies consisting of hundreds of miles of pipeline located through numerous counties in Minnesota. The pipeline company challenges the constitutionality of various portions of the state commercial property tax valuation methods.
- **Individual Income Tax, Residency of High Income Individual.** Defended Revenue in the Minnesota Tax Court in two suits by two high income individuals who challenge Revenue's determination that they are residents of Minnesota for purposes of the Minnesota state income tax. One of these suits involves an assessment of approximately \$2 million dollars against an individual who owns and operates several successful businesses in Minnesota but argues he is a resident of Nevada, a state with no state income tax. In one of these cases, the individual challenges the constitutionality of Revenue's application and interpretation of the statutes and promulgated rules that outline the factors to be considered in determining whether an individual is a Minnesota resident for state income tax purposes.
- **Bankruptcy, Chapter 11 Filing of Major Investment Company.** Defended the Minnesota State Board of Investment's interests in a Chapter 11 bankruptcy action by a large investment company in Bankruptcy Court. When the company declared bankruptcy, some of the Board's non-bond investments could be recovered under certain provisions of the Bankruptcy Code, but bonds are not afforded those protections.
- **Bankruptcy, Chapter 11 Filing of Major Computer Manufacturer.** Defended multiple Minnesota state agencies in Bankruptcy Court in a major computer manufacturer's Chapter 11 bankruptcy action. Several Minnesota state agencies including numerous MnSCU campuses and the Minnesota Racing Commission contracted with the computer manufacturer for hardware, service and maintenance guarantees.
- **Bankruptcy Advising for State Agencies.** Provided legal representation to numerous state agencies including Minnesota State Colleges and Universities regarding their collection or claim rights when individuals file various forms of bankruptcies while owing the state agency a debt.
- **Collection Litigation for State Agencies.** Provided legal representation to numerous state agencies in seeking collection of funds owed to state agencies, defended or preserved state agencies' rights in contract actions, collection of misappropriated or stolen funds, and defended various claims challenging these collections.

- **Real Estate Matters and Property Liens for the Department.** Reviewed and responded to numerous and varied property liens, lawsuits and filings involving Revenue including, foreclosure actions, quiet title actions, land registration, notices of property sales, etc. in state and federal court and defends or seeks to preserve the priority of state tax liens over the liens and judgments of other claimants.

MINNESOTA STATE COLLEGES AND UNIVERSITIES (“MNSCU”)

The division provides legal representation to the Chancellor’s staff and MnSCU administrators at institutions throughout the state. It provided legal representation to MnSCU in a variety of formal lawsuits initiated primarily by students and some former staff against the schools. In FY 2011 the Division continued to litigate several employment law cases on behalf of MnSCU. The Division provided client advice on a wide range of issues including student disciplinary proceedings, and various additional constitutional issues that arise in the context of educating, counseling and the housing of students and now employment law matters. Examples of the Division’s work for MnSCU during the last year include:

- **Faculty Member Claim of Discrimination.** Assisted in settling lawsuits by several MnSCU staff members for significantly less than the demand.
- **Faculty Member Claim of Discrimination.** Obtained a favorable judgment in the Federal District Court on behalf of a MnSCU campus against a claim of racial and pay discrimination.
- **Students Claim of National Origin Discrimination.** Defended numerous MnSCU campuses against claims by multiple students of national origin discrimination.
- **Dismissals and Default Judgments.** Successfully obtained several dismissals and default judgments in State district courts against plaintiffs who sued various MnSCU campuses.
- **U.S. Department of Education, Office for Civil Rights (“OCR”).** Provided legal advice and defended against complaints filed with the OCR, including the dismissal of student claims of alleged discrimination.
- **Minnesota Department of Human Rights (“MDHR”).** In FY 2011 there was an increase in students filing MDHR complaints. Obtained several dismissals or findings of no discrimination against various MnSCU campuses.

MINNESOTA DEPARTMENT OF EDUCATION (“MDE”)

The Division provides legal advice to MDE, which administers and oversees the State’s K-12 education programs, including charter school issues, state and federal special education programs, data practices, the federal No Child Left Behind Act, graduation standards and testing, the child and adult food care program, and state financial audit issues. The Division’s legal work for MDE includes, for example:

- **Obtained a favorable decision at the Minnesota Supreme Court on the Commissioner's Interpretation of Special Education Regulations.** Obtained a favorable decision at the Minnesota Supreme Court that a local school district must comply with federal IDEA special education requirements that require school districts to examine what accommodations a special education student might need to meaningfully participate in and have access to after-school extra curricular activities that are already available to other students.
- **Special Education.** Successfully defended MDE in numerous lawsuits in Minnesota Federal District Court and in the Eighth Circuit Court of Appeals which challenged MDE's supervision of local school districts in complying with federal and state special education laws and MDE's complaint resolution decisions regarding special education services.
- **Obtained Dismissals of Requests for Temporary Restraining Orders (TROs).** Successfully defended MDE and obtained dismissals of numerous Complaints and requests for temporary restraining orders filed against the Department on a variety of subjects, including a request for TRO to grant a transfer of authorizer in a charter school case, a request for TRO to grant a very large multi-million dollar state testing contract, among others.
- **Charter Schools.** Provided legal advice to MDE on numerous issues relating to charter schools, including accountability, state aid overpayments, lease aid, grants management, sponsorship contract appeals, and financial audits. Successfully defended MDE in lawsuits in state district court and the Minnesota Court of Appeals arising out of closure of charter schools. Following are some significant cases. The Division is defending the Commissioner of Education in Federal District Court in a large lawsuit which contains numerous claims by the American Civil Liberties Union ("ACLU") against MDE, the Commissioner, the charter school, its sponsor, and its board members among others, arguing in part that the Commissioner and MDE failed to appropriately oversee the administration of a charter school. In essence, the ACLU claims that MDE and the Commissioner impermissibly violated the Establishment Clause of the First Amendment by allowing the charter school to operate as a religious school and providing state and federal funding to the school. The Division successfully settled the ACLU's claims against the Commissioner as well as obtained a judgment for indemnification against the school for the Commissioner's claims against the school.

The Division is also currently pursuing a contested case at the OAH against an on-line charter school that inappropriately granted credits and graduation diplomas to students who did not meet basic state curriculum requirements.

- **Maltreatment of Minors in Schools.** Provided legal representation to MDE in several maltreatment hearings. Reports of maltreatment of minors that occur in school buildings are investigated by MDE. After MDE makes a finding of maltreatment by a school worker (such as a teacher, assistant teacher or bus driver), the school worker may request an administrative hearing. Successfully defended several appeals of MDE's final determination of maltreatment to state district court.

OFFICE OF HIGHER EDUCATION ("OHE")

The Division provides OHE legal advice and representation on a variety of issues that arise from OHE's administration of federal and state higher education programs, including (1) student loan and financial aid programs; (2) registration of private and out-of-state public higher education institutions that provide programs in Minnesota; and (3) licensure of private business, trade and correspondence schools. During the last year, the division argued successfully at the Office of Administrative Hearings that a particular private educational entity was subject to OHE's registration and licensure statutes. The entity settled with OHE by completely refunding to the student the full amount of the tuition she paid for the course, which was OHE's initial demand.

STATE HIGHWAYS

The State Highway 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. In addition, the division advised Mn/DOT and other state agencies involved in construction projects and represented the State when contractors, subcontractors, or third parties sued the State on construction-related matters. The division also protects taxpayers by filing claims on behalf of the State against entities that perform defective work, fail to pay employees legally mandated wages, or otherwise fail to comply with contract requirements.

The Division advises client agencies on the legal ramifications of proposed activities and development projects, assists State agencies in real estate transactions and evaluates and attempts to resolve claims before litigation arises.

In FY 11, the Division's activities included:

- Provided legal representation to Mn/DOT in litigation related to eminent domain actions and appeals arising in connection with hundreds of properties that 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.
- Advised the Commissioner in adjudicating contested case decisions in regulatory matters such as prevailing wages, and contract debarment matters.
- Advised Mn/DOT regarding 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.
- Provided legal representation to Mn/DOT in its statutory prevailing wage enforcement responsibilities in attempting to recover unpaid wages for contractors' employees on Mn/DOT projects.

- Provided legal representation to the Minnesota National Guard regarding legal matters, including contract review and real estate transactions.
- Provided legal representation to and advised Mn/DOT, the Minnesota State College and University Board in construction contractor claims.

SOLICITOR GENERAL

First, the section provides litigation services to a variety of clients, ranging from 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 section provides legal representation to state agencies and the judicial and legislative branches of the State in regard to a broad range of employment issues and claims. Third, the section litigates tort claims brought against the State, its agencies and employees in personal injury, property damage and wrongful death lawsuits. The section also serves as general counsel to the members of the Public Utilities Commission ("PUC") and the PUC's staff.

Examples of litigation include:

- Various civil rights actions brought against state officials in federal and state courts.
- State's right of reimbursement to some or all of the payments made pursuant to the I-35W bridge collapse victims' compensation fund.
- The continuation of core functions of state government, including the judicial branch, during the State shutdown.
- Challenges to Minnesota's legislative and congressional districts in light of the 2010 census.
- The validity of a statutory cap in payment to large paper and timber companies that have enrolled forest land in a program under the Sustainable Forest Incentive Act.
- A challenge by the U.S. Equal Employment Opportunity Commission to an early retirement incentive plan for law enforcement officers.
- The validity of campaign finance legislation.
- The validity of fatigue inspections of interstate truckers by the Minnesota State Patrol.
- The validity of statutory prohibition against knowingly false reports of police misconduct.
- The validity of provisions of the Minnesota Code of Judicial Conduct prohibiting judicial candidates and judges from endorsing other candidates and from personally soliciting campaign contributions.
- State laws subjected to claims of federal preemption.

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 Minnesota Whistleblower statute, Minnesota Human Rights Act, Americans with Disabilities Act ("ADA"), Family and Medical Leave Act ("FMLA"), Fair Labor Standards Act ("FLSA"), and claims of discrimination and harassment under Title VII of the Civil Rights Act. The division also represents the State in lawsuits involving labor issues. The division has represented state agencies in several class action lawsuits involving claims of discrimination. The division represents the State and state officials in actions filed in federal and state courts and before administrative tribunals.

In FY 11, the division saved the State in excess of \$11.4 million by resolving employment lawsuits.

The division 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 medical malpractice, defamation, infliction of emotional distress, excessive use of force, interference with business relations and violations of federal civil rights. Examples include: highway crash cases in which the Minnesota Department of Transportation is faulted for inadequate design, construction or maintenance of a state highway; suits against the Departments of Human Services and Corrections for deaths or injuries occurring in the institutions they operate; and claims against the Department of Natural Resources arising from snowmobile and ATV accidents on state trails and accidents in public waterway access sites. The division represents the State in litigation arising from the I-35W bridge collapse. Thus far, \$6 million has been recovered by the State relating to the Bridge collapse litigation, and the division saved the State over \$7.7 million in resolving claims against it relating to the Bridge collapse. During FY 11 the division saved the State more than \$12.8 million in its resolution of other personal injury litigation.

The division provides representation to the PUC in both state and federal courts. In the past year, the division has defended PUC decisions in state court involving matters related to increased power production at the Prairie Island Nuclear Power Plant, the authorization of a new gas pipeline, and interim rates charged by a Minnesota electric utility. In addition, in federal court, the division defended the authority of the State to set wholesale rates for telecommunications facilities.

The division also advises the PUC on energy, siting and telecommunications matters that come before the agency. Energy matters for which the PUC seeks advice include: the rates and practices of electric and natural gas utilities providing energy services in the State of Minnesota. The division advises the PUC on matters related to the siting and routing of large energy facilities, including petroleum and natural gas pipelines, electric transmission lines and electric generating facilities. In addition, the division advises the Commission on telecommunications matters before the PUC, including interconnection agreements between telecommunications providers, complaints filed with the PUC alleging violations of state telecommunications law and rate and service quality issues. Finally, the division provides counsel to the PUC on issues related to the implementation of legislative directives, such as the development of the renewable energy credit tracking system.

LEGAL SERVICES

LICENSING BOARD

The Licensing Board Division performs statutory investigative services for 16 health licensing and 2 non-health licensing boards. The division works with the Office's Licensing Board Legal Division. The investigation of complaints by this division provides separation of the investigative function from a board's quasi-judicial responsibilities and provides consistency among all boards. After an investigation is completed a report with findings is forwarded to the Licensing Board Legal Division for review with the licensing board.

The investigation begins with a review of the complaint to determine jurisdiction. Complaints often include numerous allegations with matching intricate details. To ensure timely and successful completion of the investigation, a case strategy is prepared to determine the focus of the investigation and whether coordination with other agencies is required. Division staff investigate: allegations of impairment due to mental health concerns and drug or alcohol use, allegations of sexual misconduct, allegations of incompetent medical care, billing fraud and unlicensed activity. Active investigations may include, but not be limited to: (1) interviewing complainants, witnesses, patients and licensees, (2) analyzing records and other evidence and (3) inspecting practice settings in cases alleging deficiencies in infection control.

Some noteworthy investigations included (1) a physician who was charged with inappropriately prescribing oxycontin and conspiracy to commit sex trafficking, (2) a surgeon who was disciplined for exchanging inappropriate electronic messages with a patient, (3) a psychologist whose license was revoked for engaging in a romantic relationship with an inmate patient, (4) a dentist who was disciplined for providing substandard care and inadequate infection control and (5) a veterinarian who voluntarily surrendered his license for providing substandard care.

During FY 11, division investigators completed 350 investigations.

LICENSING BOARD LEGAL

The Licensing Board Legal Division provided legal representation to the State's health licensing boards, the Health Professional Services Program, Minnesota Board of Law Examiners, and the Minnesota Continuing Legal Education Board. During FY 11, the division provided legal representation to all 16 of the State's health licensing boards, which are the Board of Behavioral Health and Therapy, Board of Chiropractic Examiners, Board of Dentistry, Board of Dietetics and Nutrition, Emergency Medical Services Regulatory Board, Board of Marriage and Family Therapy, Board of Medical Practice, Board of Nursing, Board of Nursing Home Administrators, Board of Optometry, Board of Pharmacy, Board of Physical Therapy, Board of Podiatry, Board of Psychology, Board of Social Work, and Board of Veterinary Medicine. Legal representation included representation at disciplinary conferences, advising attorney services, and representation in contested cases and judicial proceedings. The Health Licensing Division

and Health Licensing Investigations Division are jointly assisting the boards with more than 550 cases.

The legal services provided by the division primarily consist of participation in complaint resolution, a process that involves activities devoted to protecting the public. By statute, the Attorney General's Office plays a role in the complaint resolution process. The division advises the boards on procedural due process, statutory interpretation of disciplinary provisions, subpoena power, jurisdiction, peer review, and agency authority. The division is responsible for reviewing investigative reports, advising complaint committees, representing the boards at disciplinary conferences, negotiating settlements, and representing the boards in contested cases. The division's work supports a wide range of regulatory activities, from initial licensure to revocation to reinstatement.

During FY 11, the boards used negotiation and mediation extensively to resolve complaints. The division negotiated suspension agreements and agreements requiring licensed health care providers to attend training sessions to improve substandard skills, to limit their professional practice to appropriate settings, and to refrain from unethical and unprofessional conduct. The division assisted the Board of Medical practice in resolving several cases that involved multiple violations of the Medical Practice Act for prescribing controlled substances. These settlements required monitoring of the physicians' practice and partial reimbursement of the Board's investigative costs.

During FY 11, the division provided legal representation to boards in administrative contested case proceedings involving professional misconduct, unlawful practice, and mental health/chemical dependency. The division represented the Board of Medical Practice in two contested cases where physicians engaged in improper relationships with their patients. Both cases resulted in public reprimands, and conditions being placed upon the physicians' licenses. The division continues to represent the Board of Chiropractic Examiners in its licensure actions involving fraudulent billing with credit cards. Thus far, two chiropractors have agreed to a suspension of their licenses with an eventual return to practice under strict conditions. The investigation and litigation into these issues remains ongoing.

In addition to contested cases before the Office of Administrative Hearings, the division provides legal representation to the boards' complaint committees directly before the boards in matters involving noncompliance with disciplinary orders, orders for mental and physical examinations, and temporary suspensions. For example, the division regularly provides legal representation to the Board of Nursing in contested cases involving numerous issues including the diversion of medications and substandard practices.

During FY 11, the division provided legal representation to the boards in multiple actions in district court and in cases before the Minnesota appellate courts. The division successfully provided legal representation to the Board of Medical Practice in district court against a claim that it failed to exercise its statutory authority.

BOARD OF LAW EXAMINERS

In the last year, the division defended the adverse determination of the Board of Law Examiners in three matters, which are still ongoing. The adverse determinations are based

generally on the applicants' failure to demonstrate the requisite character and fitness to merit admission to the Minnesota Bar. The division also defends the Board of Law Examiners in appeals from applicants who do not obtain a passing score on the Minnesota Bar Examination on an as-needed basis.

HEALTH PROFESSIONALS SERVICES PROGRAM

The division assists the Health Professionals Services Program, which is the health boards' diversion program for health care providers diagnosed with mental illness or chemical dependency, in establishing practice restrictions and setting boundaries for impaired physicians, nurses, pharmacists, dentists, and other health care practitioners.

ANTITRUST AND RESIDENTIAL UTILITIES

The Residential and Small Business Utilities Division ("RUD") represents the interests of residential and small business utility consumers in the complex and changing electric, natural gas, and telecommunications industries, particularly with regard to utility rates, reliability of service and service quality.

The RUD has participated in the following rate cases:

- ***Minnesota Power ("MP") 2009 Electric Rate Case.*** RUD opposed Minnesota Power's request for the imposition of a \$73 million interim rate increase based on exigent circumstances affecting Minnesota Power's residential ratepayers. The Commission concurred and reduced Minnesota Power's interim rate increase to approximately \$48.5 million. RUD also opposed MP's sales forecast which contributed to the significant rate increase request. In response to parties' objections, MP entered into a settlement to allow further rate adjustments if sales levels in the rate case prove not to be reliable. RUD filed its brief in this matter, supporting the Commission. Oral Argument has been scheduled.
- ***Interstate Power and Light 2010 Electric Rate Case:*** Interstate Power and Light filed a request for a \$15.1 million increase in rates, or approximately 22 percent over existing rates. RUD intervened. The Commission adopted many of RUD's positions and limited IPL's rate increase to \$7.7 million.
- ***Otter Tail Power 2010 Electric Rate Case.*** Otter Tail Power filed a request for a \$10.6 million increase in rates, or 8 percent over existing rates. RUD intervened. The Commission granted a \$5 million increase.
- ***Xcel Energy 2010 Electric Rate Case.*** Xcel filed a request for a \$198 million increase in rates, or 7.4 percent over existing rates. The increase was proposed to be implemented over two years with \$150 million in 2011 and the remaining \$48 million in 2012. Xcel subsequently reduced its request to \$170 million. RUD intervened. The case is pending before the Administrative Law Judge and the Commission.

- **Minnesota Energy Resources ("MERC") Gas Rate Case.** MERC requested a \$15.2 million increase in rates, or approximately 5 percent over existing rates and also requested a decoupling mechanism as permitted by 2009 legislation. RUD intervened. The case is still in process.

The Antitrust 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. The division ensures consumers, businesses and the government have a competitive environment in which to purchase goods and services.

Specific examples of the division's work in FY 11 include:

- **DRAM litigation.** Minnesota and thirty-one other states sued the manufacturers of dynamic random access memory computer components which were allegedly engaged in a price-fixing scheme. The states allege that a price-fixing scheme artificially inflated the cost of computer equipment acquired by the states.

STATE RESOURCES

Attorneys in the State Resources Division ("SRD") provide legal advice and representation to the Minnesota Pollution Control Agency ("MPCA") and the Environmental Quality Board ("EQB").

SRD attorneys work with MPCA staff and provide legal advice regarding available enforcement alternatives. Once MPCA decides on a course of action, SRD attorneys provide legal representation to MPCA. Most enforcement involves MPCA's issuance of an administrative penalty order ("APO") that identifies corrective actions for a party to make in order to come into compliance with environmental laws and the payment of a civil penalty in an amount up to \$10,000.

The division negotiates stipulation agreements with the regulated parties. These agreements generally establish a schedule for taking corrective actions or coming into compliance, payment of a civil penalty, and the implementation of supplemental environmental improvement projects. Some enforcement actions also include cost recovery to recover monetary expenditures made by the State to mitigate or remediate environmental damage. SRD attorneys are involved in negotiations to address legal issues that arise and assist in drafting language that prescribes the roles and responsibilities of the parties. In situations where settlement is not reached, the enforcement matter is litigated in district court on behalf of MPCA by SRD attorneys.

In FY 11, MPCA enforcement actions resulted in approximately 140 APOs and 40 stipulation agreements. The civil penalties imposed totaled approximately \$1.6 million.

The SRD continued to pursue insurance proceeds to recover landfill cleanup costs under the Landfill Cleanup Act. The final two lawsuits by the State to recover landfill cleanup costs

from insurers were completed in FY 11. The SRD recovered approximately \$11.7 million dollars in FY 11 in resolving these two lawsuits.

SRD provides legal advice and litigation services to MPCA on a variety of non-enforcement issues. On average, approximately 200 files are maintained in the SRD regarding ongoing legal advice. MPCA seeks legal advice involving permitting, rulemaking, and environmental review. Additional issues include: tank leak cleanup cost recoveries; superfund cleanups; natural resource damages; asbestos removals; bankruptcies; contract disputes; hazardous and solid waste disposal; 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 toxics and federal new resource review

In FY 11, the SRD provided legal representation to MPCA on numerous environmental review, enforcement, natural resource damage claims and permitting appeals in state district and appellate courts, the Office of Administrative Hearings, and in U.S. District Court. One such case is a lawsuit filed against Minnesota Mining & Manufacturing for natural resources damages, water pollution, and public nuisance due to pollution from manufactured PFC chemicals.

The SRD provided legal services to MPCA regarding remediation, and natural resource damage and property transfer issues at the Twin Cities Army Arsenal Property (TCAAP) site in Arden Hills. This site is approximately 2,000 acres. The SRD is negotiating with the Department of Justice, the United States Army, and the United States General Service Administration regarding issues at the site.

The SRD provided legal services to MPCA on a variety of real estate and contract matters in FY 11, including several real estate transactions for MPCA's closed landfill program.

The SRD provided legal services, including contract and grant review, to MPCA's division of Office of Environmental Assistance ("OEA") which 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.

SRD provides legal advice to the Environmental Quality Board ("EQB") with respect to the implementation of its delegated legal authorities.

CONSUMER, INFORMATION SERVICES AND LEGAL SERVICES PROCESSING

The Consumer, Information Services and Legal Services Processing Divisions, sometimes coordinating efforts with other divisions of the Office, seek to protect Minnesota citizens from unlawful conduct by taking legal action against violators of Minnesota laws.

Examples of litigation matters handled by the Office during the last fiscal year include the following:

- This Office continued its litigation against American Family Prepaid Legal Corporation, Heritage Marketing and Insurances Services, Inc., and Jeffrey and Stanley Norman, for the sale of boilerplate living trusts and millions of dollars of unsuitable deferred annuities to Minnesota seniors. The Office obtained a judgment against these defendants for approximately \$7.2 million. Originally Defendants asked the Court to order a new trial or modify the judgment. The Court denied Defendants request in its entirety. Any proceeds received or collected in satisfaction of this judgment will first go towards paying restitution to Minnesota consumers affected by defendants' fraud.
- The division investigated several coin dealers after the Office received complaints that these businesses engaged in unfair and deceptive trade practices. Based on information obtained during its investigations, the division initiated two consumer enforcement actions. The first consumer enforcement action resulted in a default judgment of \$882,505.20. The division is currently pursuing the second consumer enforcement action through pretrial litigation.
- To date, this Office has obtained judgments against seventeen companies that violated Minnesota's foreclosure consulting laws, Minn. Stat. § 325N.01 *et. seq.*
- The Office sued a Pennsylvania company, Cheap2Dial Telephone, LLC, for allegedly "cramming" hundreds of thousands of dollars worth of unauthorized charges on thousands of Minnesota consumers' telephone bills. The Office continues to prosecute this litigation against Cheap2Dial, and has additional investigations pending into other companies for their involvement in the "cramming" of Minnesota consumers.

GOVERNMENT SERVICES

DISTRICT COURT TRIAL AND APPELLATE

The District Court Trial and Appellate Division provides prosecutorial assistance to county attorneys and local law enforcement agencies in prosecuting serious crimes, and in the civil commitment of dangerous sex offenders. In addition, the division provides training for police officers and prosecutors.

The division assists counties in the prosecution of serious crimes in trial courts throughout Minnesota when requested by a county attorney. Representative work during FY 2011 included:

- Convicted Craig Hohenwald of two counts of first-degree murder for killing Lois and Larry Steenerson in their home in Kanabec County. The court sentenced Hohenwald to life in prison without parole for each count.
- Convicted Juan Humberto Castillo Alvarez of second-degree murder and kidnapping for the death of Gregory Erickson in June of 1997, in Jackson County. Gregory Erickson was just 15 years old when he was murdered. Castillo Alvarez believed Erickson owed him money for marijuana and was working as an informant. Castillo Alvarez fled to Mexico after the murder. The court sentenced Castillo Alvarez to serve 480 months in prison.
- Convicted Donald Hayes of first-degree murder for the death of Robert Azure, his girlfriend's son, in Redwood County. Robert was 13 months old. The court sentenced Hayes to life in prison without the possibility of parole.
- Convicted Zachary Raffety of second-degree murder for the death of his son, Ivory Raffety, in Big Stone County. Ivory was just three months old. The court sentenced Raffety to 210 months in prison.
- Conducted grand jury proceedings and obtained first-degree murder indictments.
- Represented the State in post-conviction challenges to murder convictions.
- Prosecuted numerous manufacturers and dealers of methamphetamine in multiple counties throughout the state.
- Provided continuing legal advice and assistance to the Forensic Laboratory Advisory Panel for the Bureau of Criminal Apprehension, the Child Mortality Review Board, the Violent Crime Coordinating Council, the Advisory Committee on the Rules of Criminal Procedure, CriMNet, and the Stop it Now Advisory Committee.

- Provided continuing review of Extradition paperwork for the Office of the Governor.

Division attorneys also provide assistance to county attorneys in civil commitment hearings involving dangerous sexual predators, upon the request of the county attorney. When a county attorney decides to proceed with a civil commitment petition, division attorneys assist the county attorney in preparation of the commitment petition, handling of pre-trial matters, and the handling of the commitment hearing and any appeal. The number of these commitments and complexity of the cases increased significantly during the latter half of FY 04, a pace which has continued since that time.

Division attorneys handled several cases relating to petitions for habeas corpus by individuals civilly committed as sexual predators. As the population of committed sexual predators increases, the number of petitions for habeas corpus from the Department of Human Services' regional treatment centers continues to grow.

The division's attorneys also handle 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 such cases, which affect the type of notice given to the community in which the sex offender will be released. The division also advises the BCA on registration issues and DNA collection issues, and the Department of Corrections on community notification issues.

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

The division also provides assistance to county attorneys in felony appeals. The cases handled in FY 2011 involved, among other crimes: murder, sexual assault, drug distribution and manufacturing, child sexual abuse and felony assault.

As part of the appellate work, the division also handled federal habeas corpus petitions challenging state-court convictions for non-metro counties during FY 2011. Attorneys in the division appeared on behalf of the State on three habeas petitions in federal district court and one at the 8th Circuit Court of Appeals in FY 2011.

Appellate attorneys assisted prosecutors by providing legal research and preparing legal memoranda, and assist local prosecution on legal questions.

MEDICAID FRAUD

The Medicaid Fraud Division is a federally-certified Medicaid Fraud Control Unit (MFCU) with a two-fold mission:

1. Review and investigate reports of vulnerable adult abuse, neglect and financial exploitation in nursing homes, group homes, foster care homes, hospitals, board and care residences, and by home care providers.

2. Investigate and prosecute health care providers who commit fraud in delivery of the Medical Assistance program.

One goal of the division is to recover Medicaid funds from providers who fraudulently bill the program. The division does this through local, state and federal criminal and civil prosecutions and by participating on a national basis with other Medicaid Fraud units in the country.

The division receives referrals from the Department of Human Services, citizens, police, county adult protection workers, and state agencies. The staff in the division follow up on investigations to ensure that law enforcement is involved in criminal cases, and interact with city and county attorneys to request the issuance of criminal complaints for assault, abuse and financial exploitation of vulnerable adults. Division investigators assist local prosecutors in the investigation phase of the cases by interviewing, reviewing documentation, and preparing complex financial spreadsheets of documents obtained by search warrant. Division attorneys also assist local prosecutors and accept referrals to prosecute cases around the state.

The Medicaid Fraud Division has investigated and prosecuted Personal Care Assistants (PCAs) and Personal Care Provider Organizations (PCPOs) engaged in fraudulent billing practices. Typical schemes involve billing for services not provided, billing the authorized units rather than actual units provided, billing for registered nursing (RN) services when there is no RN employed by the agency, providing group care, but billing as if one-to-one care is provided, and using identities of individuals not employed by the agency as if they were employees. Many of the fraud cases have a criminal neglect component because the recipient's condition is compromised due to lack of care.

One conviction involved the owner of a home health agency providing both private duty nursing and PCA services. The agency rented several apartments in one building. They placed Medicaid recipients in the individual rooms of the apartments and provided shared RN and PCA services to the recipients. They billed individual services and many of the recipients never received the nursing care to which they were entitled. The owner entered a plea to fraud.

Another fraud case involved the owner of a Personal Care Provider Agency billing for PCA services while a recipient was in jail and for services provided by his office worker who did not provide PCA services. Both the owner and the office worker entered guilty pleas to fraud.

Several investigations involved financial exploitation of vulnerable adults. One case involved a power of attorney who sold her mother's farm and used the money for herself and her family while failing to pay her mother's nursing home bill. The nursing home issued a Notice of Discharge to the mother. The total theft was over \$1 million dollars. In addition, the defendant failed to report the income on her taxes. She entered a guilty plea to financial exploitation of a vulnerable adult and failure to remit taxes. She was sent to prison.

In another financial exploitation case, that involved power of attorney, a son used his mother's funds for an addition to his house, trips to Las Vegas for himself and friends, and many personal expenses. He failed to report the income he took, (over \$87,000), on his income taxes. After a jury trial, he was convicted of three counts of financial exploitation of a vulnerable adult and four counts of failure to remit personal income taxes.

The Medicaid Fraud division also conducts civil investigations using civil Medicaid statutes. The civil investigations are investigated jointly with federal agencies. Many involved are national in scope and involve civil settlements with pharmaceutical manufacturers.

The division continues to provide training to social services, law enforcement acquires and provider groups on financial exploitation, white collar fraud investigations and prosecution of crimes against vulnerable adults.

PUBLIC SAFETY

The Public Safety Division provides legal representation to the Commissioner of Public Safety at thousands of implied consent hearings each year in which drivers contest the revocation of their licenses due to driving while impaired by alcohol or drugs. The division is responsible for defending actions that resulted in the collection of \$3 million in 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 the state. Efforts by the division during the last fiscal year to reduce deaths, injuries, and property damage on Minnesota's streets and highways included:

- Handled nearly 4,400 district court implied consent proceedings and associated appeals challenging the revocations of driving privileges under Minn. Stat. § 169A.50-.53.
- 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 Minnesota.
- Published the Attorney General's 2011 DWI/IC Elements Handbook, utilized statewide by prosecutors, judges, defense attorneys and law enforcement professionals.
- Handled 166 district court challenges and resulting appeals to other driver's license cancellations, withdrawals, revocations, suspensions, and license plate impoundments under Minn. Stat. § 171.19.
- Argued 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 Homeland Security and Emergency Management, Office of Justice Programs, 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 Division continues to face a significant challenge from increased workload. For example, in 1993 a mere six percent of all revocations were challenged in court. In FY 2011, nearly 15 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 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 an alcohol-related license revocation on their driving records, they are more willing to challenge the underlying revocations in the state's district and appellate courts. Moreover, the increasing complexity of our state's DWI law has created a specialized DWI defense bar which vigorously challenges more revocations in the hopes of getting prosecutors to negotiate or dismiss the underlying DWI charges. Implementation of the felony DWI law and recent challenges over accessibility to the Intoxilyzer instrument's computer source code continue to increase division caseload.

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 provides legal representation to that agency in taking action against manufacturers and distributors of liquor and gambling equipment.

With regard to the Racing Commission, this division provides legal representation to the commission and 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 daily activities and regulation at both Canterbury Park and the Running Aces Harness Park race track in Anoka County. The division provides the State Lottery with a wide range of legal advice, from internet issues to lottery retailer contract suspensions, and provides legal representation to that 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 on that client's behalf in the Office of Administrative Hearings and the Minnesota Court of Appeals.

CIVIL LAW

SOCIAL SERVICES

The Social Services Division provides litigation services and legal representation to the Minnesota Department of Human Services ("DHS"), one of the state's largest agencies. Division attorneys provide legal services to DHS in the four broad areas of Health Care, Children and Family Services, Mental Health and Licensing.

Health Care

Division attorneys in the health care area handle matters concerning Minnesota Health Care Programs ("MHCP"), continuing and long-term care, health care compliance and benefit recovery. MHCP includes Medical Assistance and MinnesotaCare, which together cover approximately 776,000 Minnesotans. In continuing care, division attorneys represent DHS on matters concerning nursing home rates, aging and adult services, disability services, deaf and hard-of-hearing services and HIV/AIDS programs. In the compliance and recovery area, division attorneys handle health care compliance matters and recover payments for health care services from providers, responsible third-parties and estates. Division attorneys also represent the State in funding disputes between the state and the federal Department of Health and Human Services.

Children and Family Services

Division attorneys in the children and family services area handle legal issues relating to public assistance programs, child support, and children protection matters. Public assistance programs include: the Minnesota Family Investment Program, the General Assistance program, the Minnesota Supplemental Aid program and the Federal Supplemental Nutrition Assistance Program ("SNAP," formerly called Food Stamps). Division attorneys provides legal representation to DHS in litigation contesting the operation of these programs and advise DHS on the legal issues raised by these programs. In the child support area, division attorneys defend challenges to child support statutes and programs, and advise the agency in its oversight role over counties in administering child support collection. In children's protection, attorneys represent DHS in matters concerning children's welfare, adoption, foster care, guardianship, tribal issues and other matters.

Mental Health

Division attorneys in the mental health area represent DHS's adult and children's mental health programs, chemical dependency programs, state operated treatment facilities and forensic services, which include regional treatment centers, state operated community facilities, children's and adolescent behavioral health centers, the Minnesota Security Hospital ("MSH"), and the Minnesota Sex Offender Program ("MSOP"). Division attorneys represent DHS's interests in a broad spectrum of litigation including Jarvis/Price-Sheppard hearings to authorize forced medication and/or electroconvulsive therapy; Judicial Appeal Panel court trials involving

petitions for discharge from persons civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities; Section 1983 civil rights actions in state and federal district and appellate courts; petitions for Writ of Habeas Corpus in state and federal courts; as well as providing legal advice to state-operated facilities administration and staff.

Licensing

Division attorneys provides legal representation to the DHS Licensing division in maltreatment cases (abuse, neglect, and financial exploitation) involving personal care provider organizations and programs licensed to provide adult daycare, adult foster care, child foster care, child care and services for mental health, developmental disabilities and chemical health. Division attorneys appear in administrative proceedings and appellate courts seeking to uphold disqualifications of individuals providing services in programs licensed by DHS, respond to expungement petitions in district court to preserve judicial and administrative records for disqualification and also appear in administrative proceedings and appellate courts to uphold licensing actions against programs licensed by DHS.

The following are some examples of specific matters handled by the division:

- ***In Re Appeal of Rule 36 Ltd. Partnership of Duluth:*** Appearing before the Minnesota Court of Appeals, division attorneys defended the Department of Human Services' ability to audit the costs of providers of intensive mental health services and retroactively adjust the Medical Assistance payments they received.
- ***ACS State and Local Solutions, Inc. v. State of Minnesota, through its Commissioner of the Department of Human Services:*** Division attorneys defended the State of Minnesota against a multi-million-dollar breach of contract claim made by a vendor, ACS, that was hired to develop a software program to determine eligibility for, and distribution of, certain public assistance benefits.
- ***Minnesota Department of Human Services v. Jerome Daniels:*** Division attorneys obtained a court award of \$497,545.20 to reimburse the Department of Human Services for cost of care provided.
- ***Allen Pyron, et al. v. Ludeman, et al.:*** Division attorneys defended DHS employees in federal court against sex offenders' constitutional claims concerning searches, seizures, and property limits.
- ***Wallace Beaulieu, et al. v. Ludeman, et al.:*** Division attorneys defended DHS employees in federal court against sex offenders' constitutional claims regarding body searches and use of restraints.
- ***Supreme Court Appeal Panel ("SCAP"):*** Division attorneys handled numerous hearings before SCAP on petitions from civilly committed individuals for transfer, provisional discharge, or discharge.

- ***Jarvis/Price-Sheppard Hearings:*** Division attorneys handled numerous hearings to authorize medication and/or electroconvulsive therapy for patients who lack the legal capacity to make the decision themselves.
- ***Transfer of Mentally Ill Patients to Treatment Facilities:*** Division attorneys assisted the Hennepin County District Court to ensure that mentally ill offenders were promptly transferred to DHS facilities.
- ***District Court Appeals of Reductions in Personal Care Assistance (PCA) Services:*** Division attorneys handled numerous appeals of reductions in PCA services provided under the Medical Assistance program caused by changes in state law.
- ***Charles Evans v. Commissioner et al.:*** Division attorneys defended in the Minnesota Court of Appeals DHS licensing division's decision to issue a permanent disqualification based on a preponderance of evidence of criminal sexual conduct, including reliance on hearsay evidence and use of collateral estoppel in administrative proceedings.
- ***Licensing fair hearings and contested cases:*** Division attorneys handled scores of licensing cases involving maltreatment and disqualification decisions.

CHARITIES/CIVIL

The Charities/Civil Division serves a number of functions. First, it oversees and regulates Minnesota nonprofit organizations and charities pursuant to the Attorney General's authority under Minnesota Statutes and common law. Second, the division maintains a public registry of charitable organizations and professional fund-raisers that operate in the state. Third, the division enforces state laws.

The Charities/Civil Division oversees laws relating to nonprofits and charitable organizations. By statute, the Office receives notice of certain charitable trust and probate matters filed in the district courts and has reviewed over 400 such notices in the last fiscal year. When necessary, the division acts to protect charitable assets and represents the interests of charitable beneficiaries that might otherwise be unable to represent themselves.

The division also receives notice of the dissolution, merger, consolidation or transfer of all or substantially all assets of Minnesota charitable nonprofit corporations. It received 161 such notices in the last fiscal year. These notices are reviewed to ensure that charitable assets are protected during these transactions and used for the purposes for which they were solicited and held.

Additionally, the Charities/Civil Division responds to public complaints about nonprofits and charities and investigates allegations of fraud, misuse of funds and other wrongdoing by charities and nonprofits. Depending on the circumstances, these investigations can lead to formal legal action, or are resolved by working with nonprofit boards to bring them into compliance with the requirements of Minnesota law.

Another oversight function of the division is to educate officers and directors of nonprofit organizations about nonprofit and charities law in Minnesota. The division provides education to charities and nonprofits on important topics such as fiduciary duties for board members, governance issues, and solicitation and registration requirements. Typical audiences consist of: nonprofit board members, community members, leaders and volunteers, certified public accountants and attorneys who represent nonprofits.

The division brings suit against organizations that commit charitable solicitation fraud or otherwise violate the State's charities and nonprofit laws. Through the enforcement of laws governing nonprofit and charitable organizations, the Charities/Civil Division is able to help combat fraudulent solicitations, deter fraud in the nonprofit sector, educate the public about charitable giving, and hold nonprofit organizations accountable for how they raise, manage, and spend charitable assets.

Minnesota law requires charitable organizations and professional fund-raisers to register and file annual reports with the Attorney General's Office. In the last fiscal year, \$517,000 in registration fees were deposited to the State's general fund. At the end of the fiscal year, the division had registered and is maintaining public files for over 8,450 charitable (soliciting) organizations, over 2,850 charitable trusts, and about 350 professional fund-raisers. The information from these files allows the donating public to review a charitable organization's financial information, allowing for greater transparency, and is made available to the public at the Attorney General's Offices and in summary form on the "Charities" page of the Attorney General's website.

The Division also enforces state laws. The following are examples of suits brought in the 2011 fiscal year by the Charities/Civil Division:

- The division brought suit against two Minnesota for-profit companies that were posing as charities. The companies sold everyday items at five to eight times their normal price on the pretense that the proceeds would help employ and provide care for individuals with disabilities. In fact, the proceeds from the sales profited the owners of the companies. In settlement, the State enjoined the businesses from engaging in such behavior and recovered a substantial monetary judgment.
- The division sued an online "lead-generator" company, myfreeestimates.com, for scamming Minnesota small businesses. The company would induce small contractors to pay large up-front fees to receive the names and contact information of potential customers who were allegedly in the market for the services the contractors provided. Despite its representations about the quality of the leads it provided, myfreeestimates.com would not provide the leads the contractors had bargained for, would make unauthorized charges to contractors accounts and would refuse to refund or cancel the service for contractors who requested it. The State enjoined the company from doing business in the State, and recovered restitution, civil penalties, and costs of investigation.
- The division sued the Texas-based company TaxMasters, Inc. for its deceptive sale of tax-relief services to Minnesotans. TaxMasters would extract large up-front fees of up to

\$5,000 or more from a consumers based on deceptive or untrue representations that TaxMasters could reduce or eliminate a consumer's tax debt to the IRS or state taxing authorities. In fact, TaxMaster's would do little or nothing for consumers who paid these fees, and would often leave their customers in far worse shape than they were in when they approached the company. In settlement, TaxMaster's provided restitution to the Minnesotans who were harmed, paid civil penalties and investigative costs and is required to substantially amend its business practices to eliminate fraud, if it does business in Minnesota in the future.

APPENDIX A: SERVICE HOURS
By Agency or Political Subdivision for FY 2011

| Agency/Political Subdivision | Estimated Service Hours (1) | Actual Service Hours | Estimated Expenditures | Actual Expenditures (2) |
|---|-----------------------------|----------------------|-------------------------|-------------------------|
| Partner Agencies | | | | |
| Administration--Risk Management | | 1,351.8 | | \$ 139,075.20 |
| AURI | | 0.0 | | \$ - |
| Corrections (3) | 2,082.9 | 1,574.9 | \$ 237,456.00 | \$ 174,123.60 |
| Education Department | 2,625.0 | 4,220.8 | \$ 299,250.00 | \$ 480,186.20 |
| Gambling Control Board | | 96.5 | | \$ 11,001.00 |
| Health | 6,025.0 | 4,955.3 | \$ 660,000.00 | \$ 548,624.20 |
| Housing Finance Authority | 3,000.0 | 2,376.1 | \$ 342,000.00 | \$ 270,875.40 |
| Human Services | 20,700.0 | 21,273.9 | \$ 2,284,800.00 | \$ 2,401,809.60 |
| Iron Range Resources & Rehabilitation | | 2,243.1 | \$ 319,200.00 | \$ 254,448.40 |
| Medical Practices Board | 7,600.0 | 7,254.3 | \$ 636,400.00 | \$ 578,940.20 |
| Minnesota Racing Commission | | 328.8 | | \$ 37,483.20 |
| Minnesota State Retirement System | | 474.6 | | \$ 51,129.40 |
| MnSCU | 6,700.0 | 7,000.2 | \$ 731,300.00 | \$ 740,472.80 |
| Natural Resources | 6,875.0 | 6,804.5 | \$ 785,500.00 | \$ 767,703.00 |
| Petroleum Tank Release Compensation Board | | 27.6 | | \$ 3,146.40 |
| Pollution Control | 15,025.0 | 12,954.0 | \$ 1,712,850.00 | \$ 1,468,891.00 |
| Public Employees Retirement Association | | 1,450.5 | | \$ 160,462.00 |
| Public Safety (3) | 3,000.0 | 3,000.0 | \$ 342,000.00 | \$ 342,000.00 |
| Teachers Retirement Association | | 512.3 | | \$ 55,847.20 |
| Transportation | 17,800.0 | 14,894.5 | \$ 1,981,700.00 | \$ 1,678,003.00 |
| TOTAL PARTNER AGENCIES | 91,432.9 | 92,793.7 | \$ 10,332,456.00 | \$ 10,164,221.80 |
| Specialized Boards | | | | |
| Accountancy Board | | 324.3 | | \$ 34,170.20 |
| Animal Health Board | | 263.6 | | \$ 30,050.40 |
| Architecture Board | | 431.8 | | \$ 47,425.20 |
| Assessors Board | | 0.0 | | \$ - |
| Barber Board | | 45.6 | | \$ 5,198.40 |
| Combative Sports Board | | 28.2 | | \$ 3,214.80 |
| Client Security Board | | 139.4 | | \$ 15,816.60 |
| Cosmetology Examiners Board | | 70.2 | | \$ 8,002.80 |
| Crime Victims Reparations Board | | 161.2 | | \$ 17,101.80 |
| Land Exchange Board | | 3.4 | | \$ 387.60 |
| Peace Officers Standards and Training Board | | 112.5 | | \$ 12,805.00 |
| Private Detective Board | | 215.0 | | \$ 24,510.00 |
| School Administrators Board | | 270.2 | | \$ 30,777.80 |
| State Arts Board | | 10.3 | | \$ 1,164.20 |
| State Fair Board | | 19.4 | | \$ 2,111.60 |
| State Investment Board | | 212.8 | | \$ 22,359.20 |
| Teaching Board | | 670.8 | | \$ 76,386.20 |
| Zoological Board | | 70.1 | | \$ 7,531.40 |
| SUBTOTAL | | 3,048.8 | | \$ 339,013.20 |
| Health Boards/Offices | | | | |
| Behavioral Health & Therapy Board | | 249.5 | | \$ 19,103.00 |
| Chiropractic Board | | 1,664.4 | | \$ 149,686.60 |
| Dentistry Board | | 2,403.7 | | \$ 190,526.80 |
| Dietetics & Nutrition Practice Board | | 26.1 | | \$ 2,975.40 |
| Emergency Medical Services Regulatory Board | | 161.5 | | \$ 18,101.00 |
| Health Professionals Services Program | | 4.1 | | \$ 467.40 |
| Licensed Drug & Alcohol Counselor Program | | 411.6 | | \$ 33,582.40 |
| Marriage & Family Therapy Board | | 471.4 | | \$ 38,504.60 |
| Nursing Board | | 4,589.4 | | \$ 472,796.60 |
| Nursing Home Administrators Board | | 159.9 | | \$ 12,223.60 |
| Optometry Board | | 108.0 | | \$ 9,642.00 |
| Pharmacy Board | | 823.6 | | \$ 79,450.40 |
| Physical Therapy Board | | 409.1 | | \$ 38,557.40 |
| Podiatry Board | | 217.7 | | \$ 18,892.80 |
| Psychology Board | | 2,231.1 | | \$ 179,600.40 |
| Social Work Board | | 1,069.7 | | \$ 82,255.80 |
| Veterinary Medicine Board | | 791.9 | | \$ 61,151.60 |
| SUBTOTAL | | 15,792.7 | | \$ 1,407,517.80 |
| Higher Education | | | | |
| Higher Education Facilities Authority | | 0.4 | | \$ 45.60 |
| Higher Education Services Office | | 320.6 | | \$ 36,233.40 |
| SUBTOTAL | | 321.0 | | \$ 36,279.00 |

| APPENDIX A: SERVICE HOURS | | | | |
|---|-----------------------------|----------------------|------------------------|-------------------------|
| By Agency or Political Subdivision for FY 2011 | | | | |
| Agency/Political Subdivision | Estimated Service Hours (1) | Actual Service Hours | Estimated Expenditures | Actual Expenditures (2) |
| <i>Other Executive Branch Agencies</i> | | | | |
| Administration Department | | 749.2 | | \$ 79,918.80 |
| Administrative Hearings Office | | 314.9 | | \$ 35,673.60 |
| Agriculture Department | | 2,340.6 | | \$ 266,313.40 |
| Amateur Sports Commission | | 57.8 | | \$ 6,589.20 |
| Archaeologist Office | | 1.1 | | \$ 125.40 |
| Black Minnesotans Council | | 23.5 | | \$ 2,354.00 |
| Campaign Finance Board | | 391.0 | | \$ 42,109.00 |
| Capitol Area Architectural Planning Board | | 46.4 | | \$ 5,289.60 |
| Center for Arts Education | | 62.3 | | \$ 6,507.20 |
| Chicano/Latino Peoples Affairs Council | | 33.5 | | \$ 3,639.00 |
| Commerce Department | | 6,572.5 | | \$ 747,015.00 |
| Corrections Department (3) | | 4,096.0 | | \$ 422,144.00 |
| Corrections Department/Community Notification | | 959.3 | | \$ 88,400.20 |
| Demographics Board | | 0.0 | | \$ - |
| Disability Council | | 6.5 | | \$ 741.00 |
| Employment & Economic Development Department | | 2,793.4 | | \$ 236,222.60 |
| Environmental Quality Board | | 37.2 | | \$ 4,240.80 |
| Executive Council | | 7.0 | | \$ 798.00 |
| Explore Minnesota Tourism | | 17.1 | | \$ 1,674.40 |
| Faribault Academies | | 9.9 | | \$ 988.60 |
| Firefighter Training & Education Board | | 42.3 | | \$ 4,822.20 |
| Geographic & Demographic Analysis | | 0.4 | | \$ 25.60 |
| Governor's Office | | 191.0 | | \$ 21,774.00 |
| Human Rights Department | | 1,462.3 | | \$ 145,572.20 |
| Indian Affairs Council | | 0.0 | | \$ - |
| Judiciary Courts | | 560.4 | | \$ 63,885.60 |
| Labor and Industry Department | | 3,116.1 | | \$ 350,640.40 |
| Law Examiner's Board | | 112.3 | | \$ 12,352.20 |
| Lawyer's Professional Responsibility Board | | 69.5 | | \$ 7,923.00 |
| Legislature | | 43.6 | | \$ 4,045.40 |
| Mediation Services Bureau | | 0.5 | | \$ 57.00 |
| Military Affairs Department | | 112.6 | | \$ 12,836.40 |
| Minnesota Commission Serving Deaf & Hard of Hearing People | | 0.9 | | \$ 102.60 |
| Minnesota Gang Strike Force | | 0.0 | | \$ - |
| Minnesota Management & Budget | | 710.8 | | \$ 79,101.20 |
| Office of Enterprise Technology | | 66.5 | | \$ 5,381.00 |
| Ombudsman for Mental Health & Developmental Disabilities | | 28.5 | | \$ 3,249.00 |
| Ombudsman for Mental Health & Retardation/Civil Comm Training | | 0.4 | | \$ 25.60 |
| Ombudsperson for Families | | 55.7 | | \$ 6,274.80 |
| Public Defender, Local | | 32.3 | | \$ 3,682.20 |
| Public Defender, State | | 2.4 | | \$ 273.60 |
| Public Safety Department (3) | | 24,993.1 | | \$ 2,476,298.40 |
| Public Utilities Commission | | 2,921.4 | | \$ 331,764.60 |
| Revenue Department | | 6,890.7 | | \$ 782,324.80 |
| Rural Finance Authority | | 62.7 | | \$ 7,147.80 |
| Secretary of State | | 1,163.8 | | \$ 131,798.20 |
| Sentencing Guidelines Commission | | 13.6 | | \$ 1,550.40 |
| State Auditor | | 16.2 | | \$ 1,846.80 |
| State Historical Society | | 1.7 | | \$ 193.80 |
| State Lottery | | 32.8 | | \$ 3,189.20 |
| Strategic and Long Range Planning Office | | 0.0 | | \$ - |
| Veterans Affairs Department | | 241.4 | | \$ 27,364.60 |
| Veterans Homes Board | | 284.2 | | \$ 30,788.80 |
| Water & Soil Resources Board | | 581.9 | | \$ 66,121.60 |
| SUBTOTAL | | 62,331.2 | | \$ 6,533,156.80 |

APPENDIX A: SERVICE HOURS
By Agency or Political Subdivision for FY 2011

| Agency/Political Subdivision | Estimated Service Hours (1) | Actual Service Hours | Estimated Expenditures | Actual Expenditures (2) |
|-----------------------------------|-----------------------------------|----------------------------|---------------------------|----------------------------|
| OTHER GOVERNMENT | | | | |
| Aitkin County Attorney | | 96.3 | | \$ 9,878.20 |
| Anoka County Attorney | | 127.8 | | \$ 8,419.20 |
| Becker County Attorney | | 463.6 | | \$ 50,455.40 |
| Beltrami County Attorney | | 240.7 | | \$ 21,449.80 |
| Benton County Attorney | | 538.7 | | \$ 55,356.80 |
| Big Stone County Attorney | | 839.6 | | \$ 78,224.40 |
| Blue Earth County Attorney | | 310.0 | | \$ 29,890.00 |
| Brown County Attorney | | 12.0 | | \$ 768.00 |
| Carlton County Attorney | | 221.6 | | \$ 20,512.40 |
| Carver County Attorney | | 313.8 | | \$ 24,353.20 |
| Cass County Attorney | | 873.9 | | \$ 81,224.60 |
| Chippewa County Attorney | | 1,222.9 | | \$ 90,845.60 |
| Chisago County Attorney | | 412.0 | | \$ 30,533.00 |
| Clay County Attorney | | 397.3 | | \$ 42,052.20 |
| Clearwater County Attorney | | 303.3 | | \$ 31,356.20 |
| Cook County Attorney | | 0.0 | | \$ - |
| Cottonwood County Attorney | | 42.5 | | \$ 3,845.00 |
| Crow Wing County Attorney | | 551.1 | | \$ 51,240.40 |
| Dakota County Attorney | | 23.9 | | \$ 1,604.60 |
| Dodge County Attorney | | 390.2 | | \$ 42,812.80 |
| Douglas County Attorney | | 154.1 | | \$ 15,667.40 |
| Faribault County Attorney | | 11.9 | | \$ 1,096.60 |
| Fillmore County Attorney | | 384.2 | | \$ 39,023.80 |
| Freeborn County Attorney | | 222.0 | | \$ 21,023.00 |
| Goodhue County Attorney | | 72.5 | | \$ 8,265.00 |
| Hennepin County Attorney | | 6,232.8 | | \$ 464,524.20 |
| Houston County Attorney | | 0.0 | | \$ - |
| Hubbard County Attorney | | 159.8 | | \$ 15,167.20 |
| Isanti County Attorney | | 18.4 | | \$ 1,222.60 |
| Itasca County Attorney | | 524.7 | | \$ 52,745.80 |
| Jackson County Attorney | | 2,825.0 | | \$ 253,140.00 |
| Kanabec County Attorney | | 1,001.7 | | \$ 96,758.80 |
| Kandiyohi County Attorney | | 579.9 | | \$ 57,228.60 |
| Kittson County Attorney | | 314.3 | | \$ 27,265.20 |
| Koochiching County Attorney | | 94.2 | | \$ 10,423.80 |
| Lake County Attorney | | 0.5 | | \$ 57.00 |
| Lake of the Woods County Attorney | | 2.3 | | \$ 262.20 |
| Le Sueur County Attorney | | 822.9 | | \$ 70,220.60 |
| Lincoln County Attorney | | 0.0 | | \$ - |
| Lyon County Attorney | | 93.7 | | \$ 10,681.80 |
| Mahnomen County Attorney | | 1,754.1 | | \$ 160,427.40 |
| Marshall County Attorney | | 517.2 | | \$ 48,225.80 |
| Martin County Attorney | | 70.8 | | \$ 5,781.20 |
| McLeod County Attorney | | 0.0 | | \$ - |
| Meeker County Attorney | | 200.3 | | \$ 15,844.20 |
| Mille Lacs County Attorney | | 1,884.0 | | \$ 195,226.00 |
| Morrison County Attorney | | 129.7 | | \$ 12,535.80 |
| Mower County Attorney | | 349.6 | | \$ 35,544.40 |
| Murray County Attorney | | 70.0 | | \$ 7,905.00 |
| Nicollet County Attorney | | 304.7 | | \$ 28,350.80 |
| Nobles County Attorney | | 146.0 | | \$ 16,204.00 |
| Norman County Attorney | | 131.8 | | \$ 10,725.20 |
| Olmsted County Attorney | | 518.1 | | \$ 55,553.40 |
| Otter Tail County Attorney | | 922.6 | | \$ 99,431.40 |
| Pennington County Attorney | | 141.9 | | \$ 13,496.60 |
| Pine County Attorney | | 723.6 | | \$ 63,200.40 |
| Polk County Attorney | | 379.8 | | \$ 34,447.20 |
| Pope County Attorney | | 284.6 | | \$ 28,639.40 |
| Ramsey County Attorney | | 470.2 | | \$ 41,897.80 |
| Red Lake County Attorney | | 0.0 | | \$ - |
| Redwood County Attorney | | 982.5 | | \$ 96,390.00 |
| Renville County Attorney | | 264.4 | | \$ 21,881.60 |
| Rice County Attorney | | 1,006.2 | | \$ 93,556.80 |
| Rock County Attorney | | 4.2 | | \$ 478.80 |
| Roseau County Attorney | | 762.3 | | \$ 75,097.20 |
| Scott County Attorney | | 101.4 | | \$ 8,624.60 |
| Sherburne County Attorney | | 249.0 | | \$ 24,331.00 |
| Sibley County Attorney | | 64.8 | | \$ 4,162.20 |
| St. Louis County Attorney | | 1,427.8 | | \$ 139,679.20 |
| Stearns County Attorney | | 1,042.1 | | \$ 102,939.40 |
| Steele County Attorney | | 268.6 | | \$ 26,540.40 |
| Stevens County Attorney | | 100.7 | | \$ 11,479.80 |
| Swift County Attorney | | 197.2 | | \$ 22,405.80 |
| Todd County Attorney | | 136.1 | | \$ 12,815.40 |
| Traverse County Attorney | | 50.5 | | \$ 5,032.00 |
| Wadena County Attorney | | 805.9 | | \$ 87,212.60 |

| APPENDIX A: SERVICE HOURS | | | | |
|---|-----------------------------------|----------------------------|---------------------------|----------------------------|
| By Agency or Political Subdivision for FY 2011 | | | | |
| Agency/Political Subdivision | Estimated Service Hours (1) | Actual Service Hours | Estimated Expenditures | Actual Expenditures (2) |
| Waseca County Attorney | | 17.2 | | \$ 1,960.80 |
| Washington County Attorney | | 507.8 | | \$ 49,384.20 |
| Watsonwan County Attorney | | 96.1 | | \$ 10,015.40 |
| Wilken County Attorney | | 717.9 | | \$ 62,990.60 |
| Winona County Attorney | | 395.2 | | \$ 33,457.80 |
| Wright County Attorney | | 893.9 | | \$ 83,899.60 |
| Yellow Medicine County Attorney | | 270.8 | | \$ 24,601.20 |
| Various Local Governments | | 225.1 | | \$ 25,661.40 |
| SUBTOTAL | | 40,482.8 | | \$ 3,717,629.20 |
| TOTAL NON-PARTNER AGENCIES SUBDIVISIONS | | 121,976.5 | | \$ 12,033,596.00 |
| TOTAL PARTNER/SEMI-PARTNER AGENCIES (from page A-1) | | 92,793.7 | | \$ 10,164,221.80 |
| TOTAL NON-PARTNER AGENCIES SUBDIVISIONS | | 121,976.5 | | \$ 12,033,596.00 |
| GRAND TOTAL HOURS/EXPENDITURES | | 214,770.2 | | \$ 22,197,817.80 |
| 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 \$114.00 and Legal Assistant \$64.00 | | | | |
| (3) A number of agencies signed agreements for a portion of their legal services. | | | | |

| APPENDIX B: SPECIAL ATTORNEY EXPENDITURES FOR FY 2011, BY AGENCY | |
|---|----------------------|
| | |
| | |
| AGENCY | Amount |
| Administration | \$ 359,571.34 |
| Housing Finance Agency | \$ 19,557.82 |
| Labor and Industry | \$ 372.90 |
| Minnesota Management & Budget | \$ 69,418.01 |
| MnDOT | \$ 59,869.28 |
| MnSCU | \$ 11,709.26 |
| Perpich Center for the Arts High School | \$ 687.50 |
| | |
| TOTAL | \$ 521,186.11 |

| APPENDIX B: SPECIAL ATTORNEY EXPENDITURES | |
|---|------------------------|
| BOND COUNSEL FOR FY 2011, BY AGENCY | |
| | |
| | |
| AGENCY | Amount |
| Agricultural and Economic Development Board | \$ 139,489.50 |
| Employment and Economic Development | \$ 300,470.64 |
| Higher Education Facilities Authority | \$ 309,230.23 |
| Higher Education Services Office | \$ 96,855.03 |
| Housing Finance Agency | \$ 314,561.96 |
| Iron Range Resources and Rehabilitation | \$ 1,920.00 |
| Minnesota Management & Budget | \$ 303,446.40 |
| MnSCU | \$ 14,423.26 |
| Rural Finance Authority | \$ 3,101.98 |
| | |
| TOTAL | \$ 1,483,499.00 |
| | |
| | |
| | |
| NOTE: Certain bond fund counsel are paid from proceeds. | |