



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

February 28, 2011

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ATTORNEY GENERAL

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The Honorable Morrie Lanning
Chairman
State Government Finance Committee
Minnesota House of Representatives
383 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Dear Chairman Lanning:

I appreciate the difficult job facing you and your colleagues as you deal with the State of Minnesota's significant budget shortfall, and I appreciate the opportunity to discuss the work of this Office.

BACKGROUND

The Work of the AGO. The AGO provides legal representation to the State and over 100 state agencies, boards, officials, and commissions. The Office enforces and defends the laws enacted by the Minnesota Legislature, provides legal representation to State entity clients, provides assistance to rural county attorneys on public safety matters, and protects taxpayer dollars. In any given year, the AGO handles over 7,500 litigation files.

Constitutional Challenges. The lawsuits in which the AGO provides legal representation often involve highly complex and sophisticated legal matters. Among other things, the AGO defends the constitutionality of laws passed by the Minnesota Legislature, some related to the State's budget problems. For example, the Office is defending the constitutionality of a public pension reform law, enacted last year, which is challenged by a number of retirees. Similarly, the Office is defending the Minnesota House, Senate, and other officials in a constitutional challenge to recent changes in the Sustainable Forest Incentive Act. Other recent constitutional challenges include the Conceal and Carry law, the Minnesota Sex Offender Registration Act, the State Defense of Marriage Act, gubernatorial appointment of the Chief Justice, the Governor's unallotment authority, and the Sexual Predator Commitment Act. Most of these lawsuits involve a myriad of state defendants and may include the Governor, the legislature, and state agencies. By defending such challenges, the AGO protects the State's finances and defends the authority of and policy choices made by the Legislature.

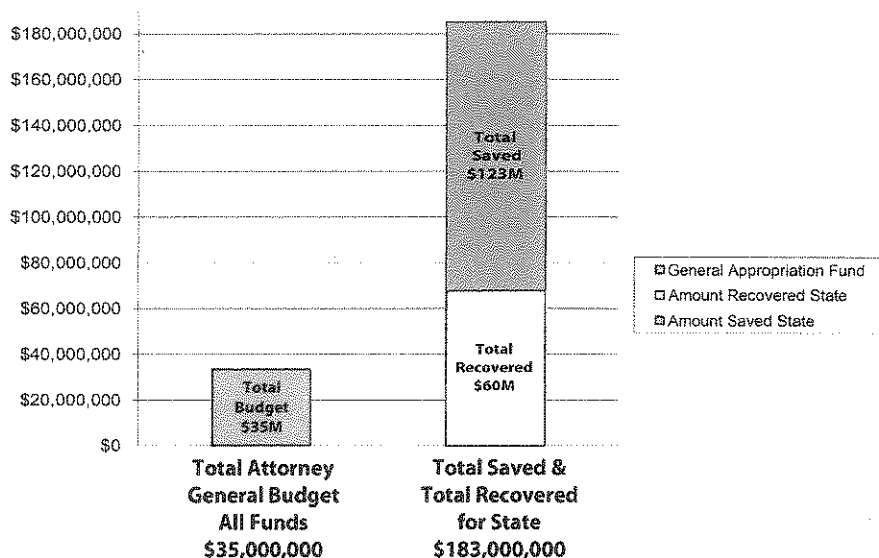
Saving Taxpayer Dollars. The AGO defends taxpayer dollars sought in lawsuits filed against the State. The State, in part because it is viewed as a "deep pocket," is often named as a defendant in litigation. By providing skilled and professional litigation defense of such lawsuits, the AGO saves the State over \$100 million per year. These lawsuits are often highly complex.

An example is the I-35W bridge litigation. In 2008, the Legislature created a Victim Compensation Fund to resolve legal claims against the State of individuals who died or were injured in the bridge collapse. Thereafter, the State and various contractors who worked on the bridge design and construction filed lawsuits against one another. To date, the State has not only successfully defended against such claims but has affirmatively recovered \$6 million for the State treasury. The litigation is ongoing. The AGO also safeguards tax dollars by taking action against entities that: 1) owe the State money, 2) cause damages to the State, or 3) defraud the State, including care providers who defraud the State Medicaid program. Last Thursday, for example, the AGO filed a criminal case against a personal home care provider who submitted close to \$1 million in questionable billings to the Minnesota Department of Human Services. On some days, the provider billed for more than 24 hours.

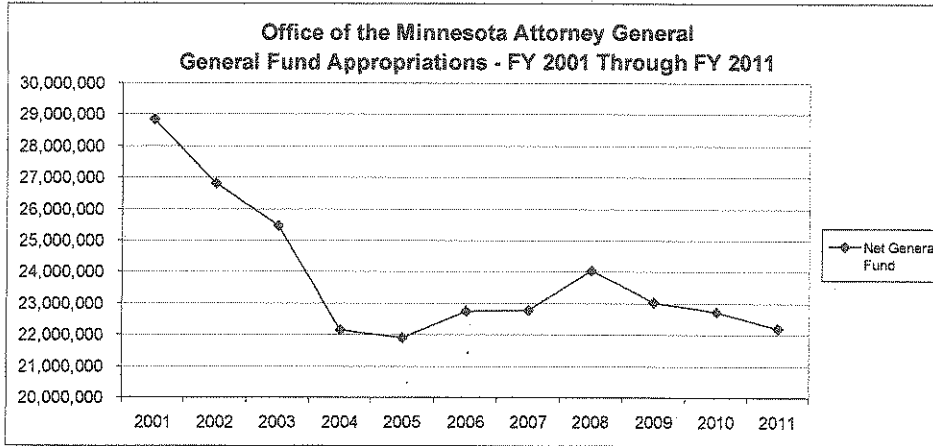
Other Litigation. The AGO, both on its own behalf and through legal representation of State agencies, enforces hundreds of State laws, serving the interests of both the State and its citizens. Every State agency uses the legal services of the AGO for enforcement actions. The AGO also provides substantial assistance to rural county attorneys in the prosecution of homicides, the defense of criminal appeals, and the commitment of sexual psychopaths. For example, the Office is currently assisting Mahnomon County in the first degree homicide prosecution of the shooter of Mahnomon County Sheriff Deputy Chris Dewey. It also assists the Minnesota Department of Public Safety in revoking thousands of driver's licenses each year under the implied consent laws. Indeed, the AGO currently is in litigation on behalf of the Minnesota Department of Public Safety over the breath testing equipment used to test DWI suspects. The outcome of the litigation will impact millions of dollars in test equipment as well as the outcome of thousands of drunk driving cases in Minnesota. Through the enforcement of State laws, both directly and for State agencies, the AGO protects the safety and economic security of Minnesota citizens and the legal interests of the State.

The net effect of the above-described legal activity is that, in contrast to agencies that cost taxpayer money, the AGO each year recovers for the State treasury substantially more funds than its total budget. The following chart depicts the total AGO budget compared to the total recoveries and savings to the State in calendar year 2010 resulting from the AGO's work:

ATTORNEY GENERAL BUDGET vs. REVENUE/SAVINGS TO STATE

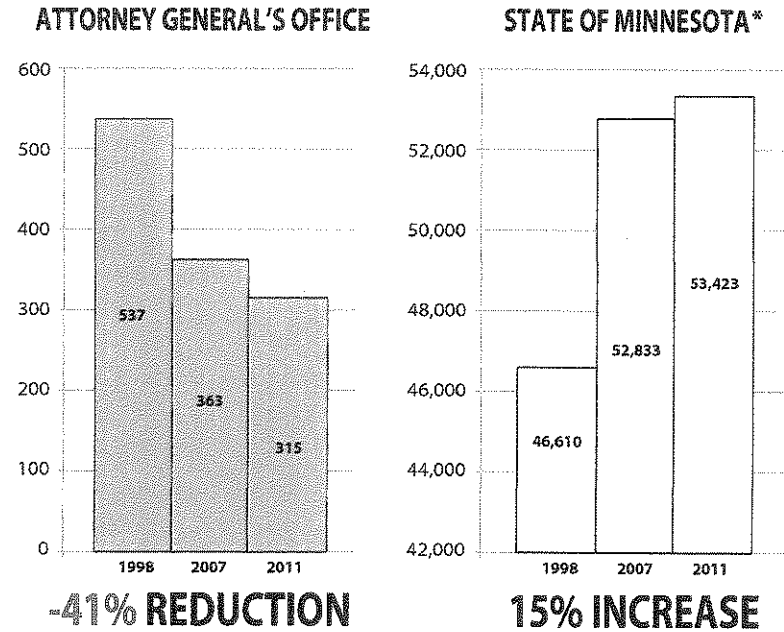


The AGO Is An Efficient Agency That Has Substantially Reduced Its Size Over the Last 10 Years. As noted above, the AGO recovers for the State treasury and saves the State monetary amounts far in excess of its budget appropriation each year. In addition, the AGO is an efficient agency that has contributed substantially over the last 10 years to the State's budget-balancing efforts. The following chart depicts the sharp decline in the AGO's legislative appropriations from 2001 to 2011:



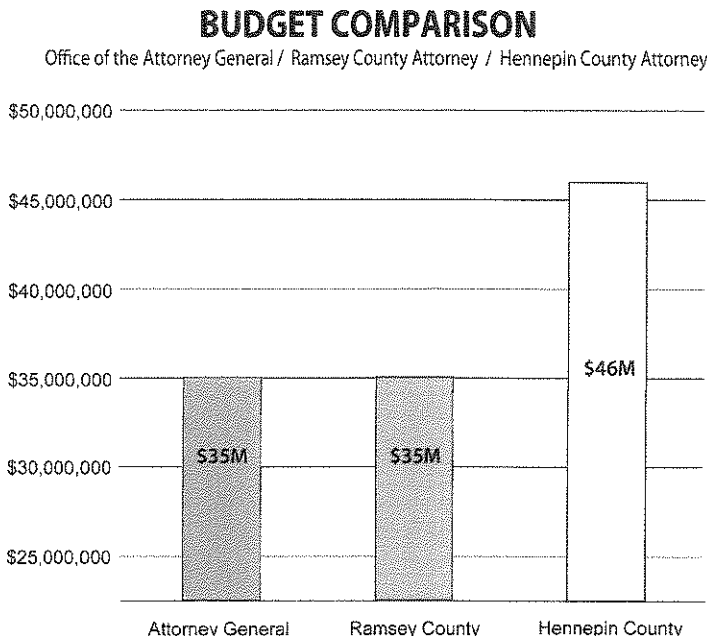
In addition, the AGO has reduced its employee count by over 40 percent since 1998, from 537 employees in 1998 to 315 employees in 2011. The following chart depicts the reduction in the number of AGO employees compared to the estimated employee count for State government as a whole:

COMPARISON OF NUMBER OF EMPLOYEES



* Estimates compiled using the 2010 Minnesota Workforce Report, and MnSCU publications and budget requests.

As shown above, the AGO has experienced a substantial reduction in funding in the last 10 years. The AGO, which represents the entire State of Minnesota (comprised of 87 counties and 5.1 million citizens), is now \$11 million *smaller* than the Hennepin County Attorney's Office (1 county) and the same size as the Ramsey County Attorney's Office (1 county):



Impact Of Budget Reductions. You ask how this Office would deal with base budget reductions of 15 and 20 percent, respectively.

As noted above, the AGO's budget has been sharply cut in the past 10 years, and the AGO's employee count has been reduced by over 40 percent since 1998. At the same time, the workload of the Office is believed to be approximately two times the level of just 15 years ago. There are several reasons for this. First, litigation over the last 15 years has become much more protracted, contentious, and sophisticated. It is not unusual for multiple law firms to represent an opposing party in a single case, with dozens of pre-trial motions and appeals filed. Second, the bad economy has spawned the need for additional litigation, from the defense of claims to claims where state agencies are plaintiffs. Third, in recent years, the State's budget problems have spawned extensive litigation as parties have filed suit when programs are cut. The difficult budget decisions to be made this year by the legislative and executive branches will invariably spawn numerous additional lawsuits.

Any additional cuts will have a serious impact on the Office's ability to carry out its legal responsibilities. A reduction of 15 or 20 percent would substantially curtail the Office's ability to defend lawsuits filed against the State, to bring meritorious claims on behalf of the State, and to provide assistance to the citizens of Minnesota on public safety matters, including to rural county attorneys. A budget cut of this magnitude would detrimentally impact public safety, the well-being of Minnesota citizens, and would result in the State of Minnesota paying out or

forfeiting tens of millions of dollars in claims that otherwise could be meritoriously defended or recovered by the Office.

RESPONSES TO SPECIFIC QUESTIONS

You ask several specific questions about the AGO's budget.

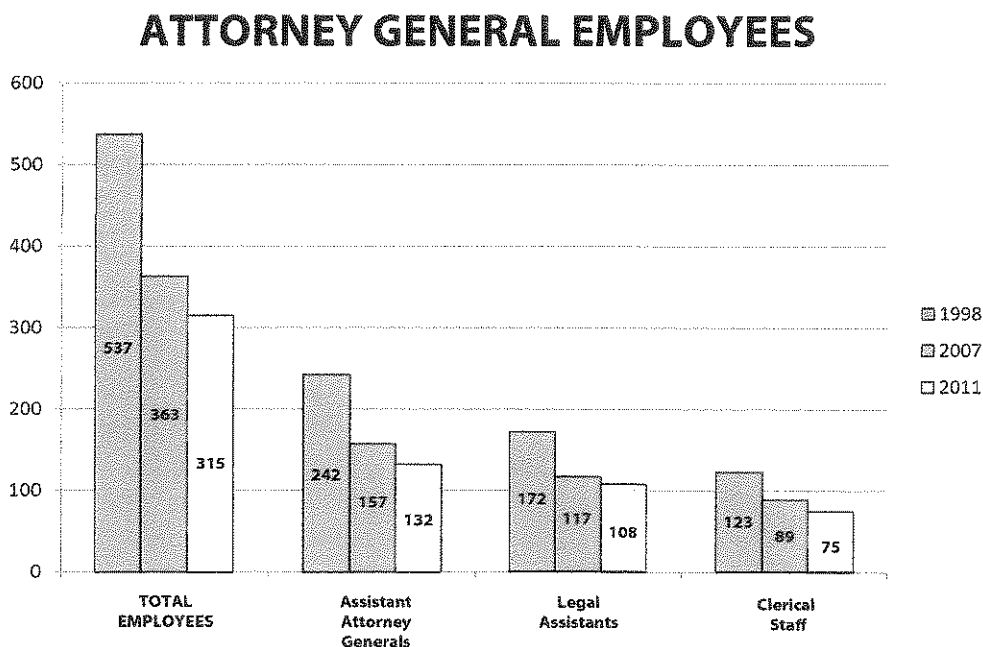
Program and Budget Detail. Attached as Exhibit 1 is a listing for FY2010-FY2011 of expenditures. Attached as Exhibit 2 is a list of Special Revenue Funds or Fee-Dedicated Accounts. Attached as Exhibit 3 is a list of federal funds by program area. Attached as Exhibit 4 is a list of statutory and open appropriations.

Indirect Cost Fund. Attached as Exhibit 5 is a copy of the AGO's approved Indirect Cost Fund plan, together with the requested historical information.

Chargebacks. Attached as Exhibit 6 is a list of chargebacks imposed by other State agencies. Because of the nature of its operations, the AGO does not impose "chargebacks" to other state agencies, but does enter into legal services agreements with a number of state agencies pursuant to which those agencies pay the AGO for its legal services.

Carry Forward Funds. Attached as Exhibit 5 is the requested information.

FTE Information. The following chart depicts the number of AGO staff among categories of employees from 1998 to 2011:



Attached as Exhibit 7 is an organizational chart, list of hires made since December 1, FTE count by fund, and FTEs by classes of employee.

Other Requested Information.

Rulemaking. The Office is not engaged in or planning any rulemaking.

Future Federal Funding. The Office previously received federal Byrne Grant funding of \$150,000 per year to provide assistance to rural county attorneys in criminal matters. Beginning in FY 2011, that funding was cut to \$25,000 per year. Future funding is unlikely. As set forth in Exhibit 3, the Office receives a grant from the federal government to operate a Medicaid Fraud Control Unit ("MFCU"), and the Office will reapply for future MFCU funding at the appropriate time. The Office is not aware of any other federal grant opportunities.

Internal Financial Transfers. Not applicable.

Vehicles. The Office does not own or lease any automobiles.

Lawsuits. Attached as Exhibit 8 is a list of lawsuits currently being handled by the Office on behalf of the State and State clients.

I thank you for your interest in the work of the Office and your consideration of this Office's budget request.

Sincerely yours,



REBECCA SPARTZ
Director of Administration
(651) 757-1111