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Information Brief

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History of the Item Veto in Minnesota

This information brief provides a short history of Minnesota governors' constitutional power to veto items of appropriations. The brief describes the 1876 amendment that established the item veto, the unsuccessful attempt to expand the item veto power in 1915, and the use of the item veto by Minnesota governors.

This is one of three House Research publications on the governor's veto power under the Minnesota Constitution. The information brief *Veto Procedures* describes the constitutional procedures for vetoing bills and items of appropriations and for overriding vetoes and item vetoes. A third publication will be a legal analysis discussing some of the legal issues connected with the item veto power.

The 1876 Item Veto Amendment

The 1876 amendment to the Minnesota Constitution authorized the governor to veto one or more "items of appropriation" in a bill containing several appropriations while approving the rest of the bill. This amendment remains the basis of the governor's item veto power.

The 1858 constitution gave the governor general veto power. The item veto power -- the power to veto individual appropriation items -- was added in 1876. The amendment was approved by an overwhelming margin, 47,302 to 4,426.¹

The amendment provided:

If any bill presented to the governor contain[s] several items of appropriation of money, he may object to one or more of such items, while approving of the other portion of the bill. In such case, he shall append to the bill at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect.²

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Little of the history surrounding the 1876 amendment has survived. The historical context suggests that the amendment was intended to increase the power of Minnesota governors relative to the legislature, but provides little in the way of specifics to aid in resolving disputes over the extent of the governor's power.

Item veto powers, by most accounts, were first given to the President of the Confederate States of America. After the Civil War, states began granting item veto powers to their governors. By the late 19th century the item veto had become a common feature of state constitutions.

The item veto was seen as a means of increasing governors' power over state spending to counterbalance the power of parochial and frequently corrupt state legislatures. In particular, supporters thought the item veto would curtail the enactment of "pork-barrel" legislation and the practice of "log-rolling."³

As their budgets and operations grew, states needed to increase control over their finances -- controlling expenditures and coordinating them with revenues. Conventional wisdom held that state governments needed more business-like administration of their operations and that administration needed to be separated from politics.⁴ Increasing the governor's power was the standard way to accomplish this. The item veto provided one element of this increase.

The amendment establishing Minnesota's item veto was recommended by John Pillsbury, governor from 1876 to 1881. Governor Pillsbury was a forceful governor who expanded the role of the governor generally and attempted to improve the administration of state government by applying business organization principles to its operation. He is best remembered for resolving the state's default on its railroad bonds and establishing the Office of Public Examiner, an office that audited the finances of state and local governments.⁵

In conclusion, aside from augmenting the governor's power to control state spending and administration, it is difficult to infer much as to the specific intent in the 1876 grant of the item veto. The context lends a flavor of the intent, but little to aid specifically in resolving disputes over the extent of the governor's power.

No Minnesota governor exercised the power during the 19th or early 20th century.

Governors in other states exercised the item veto power with some regularity. In a few states, governors exercised their item veto powers extensively. By 1915 about a dozen or so court cases had construed the extent of the governor's item veto power.⁶ However, by 1915 no Minnesota governor had used the item veto, much less been challenged in court over its use.

The 1915 Proposed Amendment

In 1915 the legislature submitted to the voters a second constitutional amendment expanding the governor's item veto power as part of an overall reform of state budgeting. This amendment would have given Minnesota governors the power to reduce items of appropriation. The amendment was not adopted.

The 1915 amendment would have given the governor the power to veto an item of appropriation "in whole or in part."⁷ The history and exact purpose of the failed 1915 amendment is sketchy. One clear intent of the amendment was to give the governor power to reduce appropriations, not just veto them in whole.

Attorney General Lyndon A. Smith described the effect of the amendment:

Under the constitution as it now is, the governor may veto any item in an appropriation bill, but he cannot cut down the amount appropriated for any specific purpose. The amendment, if adopted, will give the governor power to reduce the amount of an appropriation for any given purpose, unless upon transmittal to the legislature of a statement of the part of an item of an appropriation bill to which the objects, the two houses, each by a two-thirds vote, approve the item as it was originally passed.⁸

In 1915 Minnesota revamped its budget and appropriation systems in response to recommendations made by the Minnesota Efficiency and Economy Commission, a blue ribbon commission established and appointed by Governor Eberhart. The commission recommended a system based upon a gubernatorial budget submitted to the legislature.⁹ Under this system each department prepared estimates of its revenues and expenditures needs for the coming biennium and submitted these to the governor. The governor, in turn, revised these requests and submitted the proposed budget to the legislature. The structure and organization of the budget (its breakdown into "items" and so forth), thus, was to be determined by the executive branch. This new budget system significantly increased the governor's responsibility for and power over state spending.

Critics of the proposed executive budget system, however, felt that it imposed responsibility on the governor without power. The final decisions on spending still lay with the legislature, subject to an all or nothing veto of whole appropriation items. Since the departments' money was ultimately controlled by the legislature, the critics felt the legislature, rather than the governor, would control the departments. In the words of Governor Winfield Hammond in commenting on the budget revision bill, the governor would have only "slight control" over state departments.¹⁰

It was in this context that the legislature proposed the amendment to give the governor power to reduce items of appropriation, as well as to veto them in whole. It seems likely that the legislature attempted to respond to the criticism by augmenting the governor's veto power. If the governor could reduce or veto appropriation items, he would have significantly more power over the executive branch departments and more power vis a vis the legislature. Again, specific evidence of the actual intent is sketchy.

The voters approved the proposed amendment, but not by the necessary majority of all those voting at the 1916 election. The amendment was approved 136,700 to 83,324 (a 62 percent majority). However, 416,215 total votes were cast in the election (i.e., only about 33 percent of those voting approved the amendment).¹¹ Thus, it failed to be adopted under the constitutional requirements.¹²

Minnesota Governors' Use of the Item Veto Power

Minnesota governors have used the item veto power sparingly until recently. However, several governors have used the power in creative or expansive ways.

Only six Minnesota governors have used the item veto: Theodore Christianson, Karl Rolvaag, Wendell Anderson, Al Quie, Rudy Perpich, and Arne Carlson. Except in the case of Governor Carlson, the item veto power has been used very little. A table on page 9 lists the item vetoes of the Minnesota governors through 1991.

In 1929 Governor Christianson used the item veto power to reduce, rather than veto in whole, an appropriation.

In 1929, Theodore Christianson became the first Minnesota governor to exercise the item veto power. He vetoed several appropriations in two appropriations bills. In the case of a \$5,000 appropriation to the Hospital for Crippled Children, he did not veto the entire appropriation, but chose instead to reduce it to \$4,000.

It is surprising that a governor asserted the power to reduce appropriations so soon after the failure of the 1915 amendment to grant that authority explicitly.¹³ A fair reading of the constitution suggests that Governor Christianson exceeded his power in doing so. In a few states the authority to reduce appropriations has been implied from a general item veto power.¹⁴ However, in the vast majority of states the courts have held reduction power is not implied by the authority to veto "items" of appropriation.¹⁵ The failure of the 1915 amendment adds support to this reading of the Minnesota Constitution.

The legislature apparently did not directly object to the reduction of the Crippled Children's Hospital appropriation. The veto message was laid on the table by the Senate and never acted on.¹⁶ Nor did anyone file suit to challenge the veto.

Governors Rolvaag and Wendell Anderson used the item veto in routine ways to veto discrete appropriations.

Governors Rolvaag and Wendell Anderson vetoed a total of three appropriation items in three separate bills. The vetoed items were standard appropriations (i.e., vetoed language was a variation on the classic appropriation form: \$X is appropriated to Y agency for Z purpose). In two instances, the vetoed appropriations were made to individuals as part of the payment of compensation or claims. In one instance, the veto corrected a mistake that a legislator reported to the governor.¹⁷

Governor Quie vetoed 15 items, including statutory language that transferred money from the state bond fund to the general fund.

Beginning with Governor Al Quie, each succeeding governor has made more extensive or creative use of the item veto power. Governor Quie item vetoed a total of 15 items, more than all of his predecessors. Fourteen of these were routine vetoes of standard line item appropriations.

In one instance, Governor Quie vetoed an interfund transfer from the bond fund to the general fund. This provision did not directly authorize spending money out of the state treasury, but rather transferred excess money from the state bond fund to the general fund.¹⁸ The transferred money in the general fund would still need to be appropriated by the legislature to permit it to be spent, even if the governor had not vetoed the transfer. These appropriations would be subject to the item veto power. Governor Quie apparently regarded this interfund transfer as "an item of appropriation" that was subject to item veto.¹⁹

This was also the first instance in which the governor vetoed a change in statutory language, rather than an uncodified appropriation.²⁰

Governor Perpich used the item veto power to veto restrictions on the use of appropriations and to veto reductions in appropriations. The legislature in two instances successfully protested his use of the veto power, although litigation never resulted.

Governor Perpich in his second and third terms did not use the item veto power markedly more than Governor Quie, but he did use the power in unusual ways. Only a few of his vetoes were routine vetoes of standard line item appropriations. Governor Perpich more frequently used the item veto to reduce restrictions on state spending imposed by the legislature and to give the executive branch more discretion over spending than the legislature wished it to have. Only rarely were the vetoes straightforward efforts to eliminate an item of state spending.

In 1983, Governor Perpich vetoed appropriations for two state agencies. However, his veto message indicated that the amounts vetoed were to be restored to the departments' general budgets to be used for other purposes.²¹ One way to view these vetoes is as an attempt to veto conditions or restrictions on the lump sum appropriations to these agencies. Most courts have held that this is not a legal use of the item veto power, except where the state constitution provides an expansive veto power.²²

A number of legislators questioned the governor's legal authority to permit these moneys to be used by the two state agencies. In response, Governor Perpich essentially amended his veto message by withdrawing his suggestion that the appropriations could be spent for other purposes.²³

In 1987, Governor Perpich item vetoed a provision providing for the allocation of moneys received by the state in settlement of antitrust litigation for overcharges by oil companies. The vetoed section specified how these oil overcharge moneys were to be spent. However, it also prohibited spending of the money until certain conditions were met. Governor Perpich, in his

veto message, implied that the veto would permit these moneys to be spent without regard to the restrictions.²⁴

The legislature responded by passing a concurrent resolution, stating its view that the portions of the vetoed section that were not appropriations continued in effect as law.²⁵ The resolution stated that "items of appropriation" subject to the veto power are limited to provisions that "authorize the payment of money out of the state treasury." The legislature's concern was that "silence by the legislature on the governor's purported veto of [the non-appropriation provisions] might wrongly be construed as acceptance of a governor's power to veto items that are not appropriations of money[.]"²⁶ The money was not spent and in the following legislative session was reappropriated under a different mechanism that satisfied the governor's objections.²⁷

Governor Perpich on five separate occasions in 1989 and 1990 vetoed provisions that reduced appropriations. The net effect of these item vetoes was to increase the amount of state spending. In three instances in 1989, Governor Perpich vetoed provisions that transferred the authority to spend money from one account or agency to another. These vetoes did not reduce overall spending, but changed the agency or program that spent the money.

Arne Carlson has made extensive use of the item veto power, vetoing more items in one session than all of his predecessors combined and using the veto power in expansive ways.

In the 1991 session, Governor Carlson vetoed 82 separate items, containing \$116,832,000 in appropriations for the 1992-93 biennium.²⁸

In addition, Governor Carlson used the veto power in more expansive ways than his predecessors. Several of these vetoes followed practices used by Governors Perpich and Quie, but some of them had no precedent in Minnesota. Some of Governor Carlson's uses of the veto power include:

- Vetoing of amounts that do not appear in the text of the bill, but only in legislative working papers²⁹
- Re-writing of both proposed and existing statutory language by marking up the language in bills³⁰
- Vetoing a transfer of money between two state funds or a provision specifying the fund into which tax receipts are deposited, although the vetoed provisions did not permit money to be paid out of the state treasury for any purpose³¹
- Vetoing restrictions on appropriations or a fee increase, the proceeds of which were included in a lump sum appropriation³²
- Vetoing of bill language that did not explicitly authorize or limit the spending of state money³³
- Vetoing of the appropriation in bills containing only one appropriation³⁴

Several of Governor Carlson's item vetoes have been challenged in court. The Minnesota Supreme Court invalidated his item vetoes of three provisions of the higher education appropriations bill.

Governor Carlson vetoed three provisions of the higher education appropriations bill relating to the noninstructional costs of the boards for the state universities, community colleges, and technical colleges.³⁵ Each provision stated "The legislature estimates that noninstructional expenditures will be [\$X] for the first year and [\$Y] for the second year."³⁶ The governor vetoed the amount for the second year in each case. He apparently regarded the "estimates expenditures will be" language to be the same as "appropriates." These estimates included both general fund components and "flow through funds" or other revenues of the education systems. Governor Carlson only intended the veto to apply to the general fund amounts.³⁷ These amounts could only be determined from the legislative working papers.

A group of public employee unions and a student association filed suit, challenging the governor's item veto of non-instructional costs for community colleges, technical colleges and state universities.³⁸ These groups argued that the language vetoed by the governor was not an item of appropriation, but rather a statement of non-binding intent by the legislature. The Minnesota Supreme Court agreed with the plaintiffs and voided the vetoes.³⁹

The court considered the item veto power a limited power for two reasons. First, the item veto power is not a traditional executive power, but rather an exception to the legislature's power. "As an exception, the power must be narrowly construed to prevent an unwarranted usurpation by the executive of powers granted to the legislature in the first instance."⁴⁰ Second, because the power is limited to vetoing "items" -- not a part or parts of items -- it is "a negative authority, not a creative one--in its exercise the power is one to strike, not to add to or even to modify the legislative strategy."⁴¹

The court defined an "item of appropriation" as

a separate and identifiable sum of money appropriated from the general fund and dedicated to a specific purpose.⁴²

The court concluded the vetoed language was not an item of appropriation for three reasons. First, it was not "identifiable" in the bill -- the amounts could only be determined from the legislative working papers.⁴³ Second, the "estimate" language suggested the legislature did not intend these amounts to be binding.⁴⁴ Finally, the amounts were not dedicated to a specific purpose, the other requirement for an item of appropriation.⁴⁵

The decision in the higher education bill case gives an initial indication of the Minnesota Supreme Court's view of the breadth of the item veto power. It suggests a limited power. However, this is an initial impression based on a somewhat unusual fact situation. The Court made it clear that it was limiting its decision to the particular facts of and the "narrow question presented by" the higher education bill vetoes.⁴⁶ More cases that address some of the fundamental questions regarding the extent of the veto power will need to be decided by the court before a more definitive view emerges.

Two other cases challenging the governor's vetoes have been filed by private plaintiffs. One was dismissed for lack of standing, while another is pending.

A second group of public employee unions filed suit, also in Ramsey County District Court, challenging the governor's veto of the transfer of chemical dependency funds.⁴⁷ Again, the argument was that the transfer is not an item of appropriation. The district court dismissed the case on the ground that the plaintiff employee organizations had not shown they would be adversely affected by the veto.⁴⁸

Finally, the Minnesota Transportation Alliance, a group of contractors, local governments and others interested in transportation spending, has filed suit challenging the governor's veto of the transfer of a portion of the motor vehicle excise tax receipts to the highway user and transit funds.⁴⁹ The plaintiffs argue that these provisions are not appropriations that are subject to the item veto power. This is pending in Ramsey County District Court.

The Minnesota Legislature has never overridden or attempted to override an item veto.

Before the 1992 session, the legislature had never attempted to override an item veto. Nor had the legislature itself challenged an item veto in court. The very sparing use of the power by Minnesota governors has not given much occasion to challenge vetoes. Furthermore, the legislature cannot override item vetoes made after final adjournment, since it is not in session and cannot reconvene unless the governor calls a special session.

In January, 1992, the House of Representatives unsuccessfully attempted to override two of Governor Carlson's vetoes. Both motions failed to receive the necessary two-thirds majority vote.⁵⁰

MN Governors' Exercise of the Item Veto Power				
Governor	Session	Chapter number and items vetoed	Special Feature of Vetoes	Amount
Theodore Christianson	1929	Chap. 221 -- 6 Chap. 288 -- 3	-- reduced amount of one item	\$91,000 14,916,746
Karl Rolvaag	1965	Chap. 579 -- 1 Chap. 902 -- 1		\$400 ?
Wendell Anderson	1971	Chap. 962 -- 1		\$32,285
Albert Quie	1980	Chap. 607 -- 2 Chap. 609 -- 3 Chap. 614 -- 10	-- interfund transfer which did not authorize spending -- statutory language	\$80,000 1,085,000 4,269,000
Rudy Perpich	1983 1987 1989 1990	Chap. 301 -- 2 Chap. 403 -- 1 Chap. 335 -- 6 Chap. 565 -- 1 Chap. 594 -- 3	-- restriction on appropriations -- reductions in appropriations	\$522,000 N/A (1,236,000)* (50,000) (708,000)
Arne Carlson	1991	Chap. 178 -- 1 Chap. 179 -- 2 Chap. 208 -- 1 Chap. 233 -- 11 Chap. 235 -- 4 Chap. 254 -- 3 Chap. 265 -- 14 Chap. 270 -- 1 Chap. 286 -- 1 Chap. 291 -- 2 Chap. 292 -- 6 Chap. 298 -- 1 Chap. 302 -- 1 Chap. 345 -- 24 Chap. 355 -- 1 Chap. 356 -- 9	-- amounts contained only in working papers -- new and existing statutory language selectively vetoed -- restrictions on appropriations -- aid formulas -- appropriation in bill containing only one appropriation	\$50,000 10,000 15,000 2,896,000 1,135,000 260,000 28,333,000 214,000 130,000 1,500,000 0.** 290,000 40,000 26,787,000 400,000 54,772,000
<p>* This is a net figure. One item veto reduced spending by \$2,000, while a second item veto eliminated a \$1,238,000 decrease in spending authorization. In addition, three separate vetoes eliminated transfers between funds or accounts of \$1,950,000.</p> <p>** Provisions vetoed in the bill contained no dollar amounts. Veto message specifically identified \$855,000 of appropriations apparently from conference committee working papers (or "approximately \$1 million") for fiscal year 1992-93.</p>				

Endnotes

1. Secretary of State, The Minnesota Legislative Manual 1991-1992 at 48 (1991).
2. 1876 Minn. Laws chap. 1 § 1. The remainder of the amendment provided:

If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

The 1876 amendment remains the sole basis for the Minnesota item veto power. In 1974, the constitution was restructured and rewritten to reform its style and structure. See 1974 Minn. Laws chap. 409; Secretary of State, Minnesota Legislative Manual 1991-1992 at 53 (1991). This amendment rewrote section 23 to yield its present form. See 1974 Minn. Laws, chap. 409 § 1's amendment to Minn. Const. art. IV § 23. These changes were intended to have only stylistic effects. The 1974 legislation included a severability provision that stated:

If a change included in the proposed amendment is found to be * * * other than inconsequential by litigation before or after the submission of the amendment to the people the change shall be without effect and severed from the other changes. The other changes shall be submitted or remain in effect as though the improper changes were not included. Id. § 2.

3. House Committee on Rules, 99th Cong., 2d Sess., Item Veto: State Experience and Its Application to the Federal Situation 9--13 (Dec., 1986)[hereinafter cited as Item Veto: State Experience].
4. Id. at 12-13.
5. See 3 W. Folwell, A History of Minnesota 119-23 (1969) for a description of the Pillsbury administration. According to Folwell, the item veto amendment was recommended by Governor Pillsbury. Id. at 119. The desire for executive control over state expenditures would be consistent with his role in establishing the Public Examiner and improving government administration.
6. See Id. at 14-15, 19-22. Much of the litigation focused on the power of the governors to reduce appropriations and what parts of appropriations governors could veto.
7. The full text of the item veto power, as proposed to be amended, would have read as follows:

If any bill presented to the governor contains several items of appropriation of money, he may object to one or more of such items in whole or in part, while approving of the other portions of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items and parts of items to which he objects, and the part of any appropriation so objected to shall not take effect. 1915 Minn. Laws chap. 383 § 1 [proposed new language underlined].
8. Smith, The Eight Proposed Amendments to the Constitution of the State of Minnesota, St. Paul Pioneer Press, Oct. 14, 1916, at 9, col. 4. Minnesota law requires the attorney general to provide an opinion on the effect of each proposed constitutional amendment. See Minn. Stat. § 3.21 (1990). These opinions are published as legal notices before the election.

9. Final Report of the Efficiency and Economy Commission, A Proposed Bill for Reorganizing the Civil Administration of the State of Minnesota 41-42 (1915). In addition, the commission recommended other standard Progressive Era changes -- a civil service merit system and governmental reorganization.

10. Governor Hammond claimed the budget bill was

unfair to the Governor in that he will be charged with responsibility in popular opinion that he can not exercise, and in that way it is misleading to the legislature. They will have before them a GUESS by the Governor as to the needs of the departments to which he is a stranger and over which he has but slight control, and their tendency will be to assume that the Governor speaks with knowledge which he does not. Letter to F.A. Duxbury (March 28, 1915)(on file in the Governor's Records, Minnesota State Archives).

A Minneapolis newspaper similarly complained that the bill would make the governor "a sort of clerk for the appropriations committee[.]" Newspaper clipping (ca March, 1915)(on file in the Efficiency and Economy Commission file, Governor's Records, Minnesota State Archives).

11. Secretary of State, The Minnesota Legislative Manual 1991-1992 at 51 (1991).

12. The constitution was amended in 1898 to require a majority of all those voting at an election to approve a proposed constitutional amendment. 1897 Minn. Laws chap. 345; Secretary of State, The Minnesota Legislative Manual 1991-1992 at 49. If this provision had been in effect in 1876, the original item veto amendment also would have failed. Id. at 48.

13. The veto message did not indicate the legal authority for the governor's asserted power to reduce, rather than veto, an item of appropriation. The relevant part of the message simply said:

Ordinarily I would not object to appropriations for the Hospital for Crippled Children, for this institution not only is doing much practical good but has a strong sentimental appeal. But a reduction of the amount provided for improvement of grounds from \$5,000 to \$4,000 will not interfere with the comfort of the children, inasmuch as the school already has beautiful grounds; and the elimination of \$10,000 for completion of the basement of the west wing, for a use which is only occasional, will, I am informed, not seriously interfere with the proper functioning of the institution. Senate J. 1158 (April 18, 1929).

14. See, e.g., Commonwealth v. Barnett, 199 Pa. 161, 48 A. 976 (1901).

15. See, e.g., Fairfield v. Foster, 25 Ariz. 146, 214 P. 319 (1923); Stong v. People ex rel. Curran, 74 Colo. 283, 220 P. 999 (1923) and cases cited in Item Veto: State Experience, supra note 3, at 157 fn 66.

16. Senate J. 1159 (April 18, 1929).

17. Governor Rolvaag's veto message explained "I am vetoing this item because I have been advised by Representative Yngve that this was included in the bill by mistake * * *." Senate J. 2358 (1965).

18. See 1980 Minn. Laws chap. 614 § 41.

19. The meaning of "item of appropriation" in article IV, section 23 is not clear. It could include any provision that moves money from one account or fund to another. An alternative meaning would limit appropriations to the authority to spend public money -- i.e., to actually pay money out of the state treasury. This definition has some support from the constitutional language that provides "No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law." Minn. Const. art. XI § 1.

Governor Quie's veto message did not address this issue. It only discussed the merits of transferring excess money in the bond fund to the general fund. House J. 7382 (1980).

20. The vetoed language of the section was to be codified in Minn. Stat. § 11.15, subd. 4. This section was repealed in a separate recodification of the state investment law also enacted by the 1980 legislature. 1980 Minn. Laws chap. 607, art. 14 § 48.

21. The message stated:

It is my intention that funds specified in the vetoed provisions be restored to general appropriations for the programs as specified [elsewhere in the bill]. House J. at 6237 (1983).

22. See Item Veto: State Experience, supra note 3, at 148-52.

23. Governor Perpich wrote:

I understand that there is a question whether vetoed funds can be restored to the general appropriation, or whether they should be deemed to cancel back to the General Fund. I do not believe this issue has been litigated before in Minnesota. Because of this legal uncertainty, I do not believe it appropriate to insist that the affected funds be restored to the general appropriations. House J. at 6237 (1983).

24. House J. at 7604-05 (1983).

25. House Concurrent Resolution No. 27, House J. 12098 (April 18, 1988).

26. Id.

27. 1988 Minn. Laws chap. 686, art. 1 § 37.

28. Counting of items is somewhat arbitrary. The count of 82 items is based upon the number of separate appropriations vetoed. If a lump sum appropriation was broken down into several component items and the entire lump sum was vetoed, it was counted as one item. Appropriations divided into separate amounts for two fiscal years were also counted as one item.

The \$116,832,000 amount is derived from the amount of vetoed appropriations that appeared in the bills or are referred to in the Laws of Minnesota. In several cases, the governor's messages also vetoed amounts that did not appear in the bills, but were listed only in the working papers of the legislative committees. For example, in the Human Service Bill no specific dollar amounts in the text of the bill were vetoed, but the Governor's veto message identified \$855,000 in specific appropriations, apparently from the conference committee worksheets, that were vetoed. 1991 Minn. Laws chap. 292. The veto message claims "savings of approximately \$1 million for FY92-93 biennium" from the line item vetoes. Letter from Gov. Arne H. Carlson to Robert Vanasek, Speaker, and Jerome Hughes, President of the Senate at 7 (June 4, 1991). The Finance Department claimed veto savings for all of the governor's vetoes of \$113,931,000. Finance Dept, Governor's Vetoes 1991 Legislative Session (June 24, 1991). The Finance Department amounts reflect reductions in the Higher Education vetoes of non-instructional costs that were not appropriated out of the general fund and were not intended to be vetoed by the governor.

29. This was done in three separate bills. In two bills, the legislature sought to bind the executive branch to the allocations made in the working papers. See 1991 Minn. Laws chaps. 233 § 21, subd 1; 292, art. 1 § 18. In the third case, the working papers apparently were not intended by the legislature to be binding. 1991 Minn. Laws chap. 345.

30. See, e.g., 1991 Minn. Laws chap. 233 § 94; and the Revisor's note for Minn. Stat. § 297B.09, subd. 1 (1991 Supp.).

31. See Id. Governor Quie made analogous use of the veto power in 1980, see note 19 above.

32. See, e.g., 1991 Minn. Laws chap. 345 art. 1 § 12. The vetoed language consisted of:

Two new staff positions and one data entry position in the office of the state auditor that are required by increased research and analysis duties shall be funded through increased audit and other fees to local units of government.

33. See 1991 Minn. Laws chap. 356, art. 1 §§ 3, subd. 3; 4, subd. 3; 5, subd. 3. The vetoed language in each case provided that the legislature "estimated that noninstructional expenditures will be" the specified amount. These estimates included non-general fund moneys which the governor did not veto, according to an explanation by the Commissioner of Finance.

34. See 1991 Minn. Laws chaps. 178 and 179. The constitution limits the item veto power to bills containing "several items of appropriation[.]" Minn. Const. art. IV § 23.

35. 1991 Minn. Laws chap. 355, art. 1 §§ 3, subd. 3; 4, subd. 3; and 5, subd. 3.

36. Id.

37. Inter Faculty Organization v. Carlson, No. C4-91-1471, slip op. at 8 (MN Sup. Ct. Dec. 4, 1991).

38. Id.

39. Id.

40. Id. at 4.

41. Id.

42. Id. at 5.

43. Id. at 8.

44. Id. at 9.

45. Id.

46. Id. at 5.

47. American Federation of State, County and Municipal Employees, Council 6 v. Carlson, (Ramsey County District Court, C7-91-11150, Nov. 25, 1991). See 1991 Minn. Laws chap. 292, art. 1 § 1, subd. 6.

48. Id.

49. Minnesota Transportation Alliance v. Carlson, No. C2-91-14327 (Ramsey County District Court, 1991).

50. House J. at 8937-38 (Jan. 13, 1992) and House J. at 8971-72 (Jan. 14, 1992).

