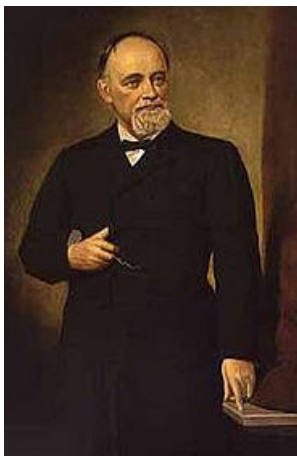




## Q&A: A brief history of item veto and unallotment powers in Minnesota

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The one-two punch of line-item vetoes and unallotments that Gov. **Tim Pawlenty** will use to balance Minnesota's budget represents a claim of executive power that's unprecedented in the state's history. So as Pawlenty prepares to go where no Minnesota governor has gone before, PIM thought it was a good time to catch up with **Joel Michael** of the House Research Department for a look back at the origins of the item veto and unallotment powers that Pawlenty will employ.

Both powers have been around a long time--the item veto since 1876, unallotment since 1939--and Michael has written analyses on both subjects.

His [paper on unallotments](#), co-authored with colleague **Mark Shepard**, was a foundational document in conceiving the Pawlenty strategy, as **Sarah Janecek** reported [here](#) two weeks ago. Michael has also produced [a history of the line-item veto in Minnesota](#) that, although less well known, is instructive and interesting. (I had no idea, for example, that the line-item veto originated during the Civil War and on the Confederate side; after the war, it was an idea taken up by states around the country.)

Michael, a nonpartisan legislative staffer, is circumspect about the legal issues raised by Pawlenty's expansive use of the unallotment mechanism in state law: "I think you can make reasonably good arguments both ways." More about this at PIM in days to come.

**PIM:** I've read your research paper on the origins of the line-item veto in Minnesota. Could you tell us a little about the circumstances under which then-Gov. **John Pillsbury** (pictured above) sought and obtained the power in 1876?

**Joel Michael:** He was sort of the ultimate 19th-century reform governor. The state was in sort of a morass at the time, in that it had issued a bunch of bonds to finance railroad expansion in the state,

and many of those railroads had gone bust on the bonds, so the state had to pay them. The state had defaulted on them, so it was a black mark on Minnesota on Wall Street.

Minnesota had very crude budget processes, as one would expect. He was of course part of the famous Pillsbury family, which had started a very successful business that was still fairly nascent at that time, but was growing. He was the classic Cincinnatus-type guy who came in to mop up the festering problems that no one had successfully dealt with. And he cleaned up the problems with the railroad bonds. As one of his reforms, they proposed to the voters a line-item veto, which passed as an amendment to the constitution. (There are two ways you can amend the constitution, but that's the only way we've done it in Minnesota. We've never had a constitutional convention.

It passed overwhelmingly, and it was a response to the strong governor--wanting to empower him over the Legislature, which was not very effective.

[Strib columnist] **Lori Sturdevant** is actually writing a biography of Pillsbury. She knows a lot about the context of the time.

**PIM:** Then, having advocated for and obtained this power, he never used it, correct?

**Michael:** Yeah, as far as I'm aware. I must confess that I never went back and tried to ferret through the laws. I'm not sure exactly how they would have recorded those early vetoes. I did not go back through the House journals and read them.

When I wrote the first version [of the item veto history], I thought the first veto was in 1928 or 1929, but I later discovered that there was an earlier exercise [of the power] back in the teens. I'd be the last to say I'm positive it wasn't ever used before then, but again, he was such a strong governor that I suspect by dint of persuasion, he may not have felt he needed to use it.

Budgeting was done very differently in those days. The Legislature typically had what were called standing appropriations. Sometimes they were standing appropriations of the amount of a revenue source that was dedicated to some purpose. So there weren't as many opportunities to use an item veto as there are now, where the Legislature would be appropriating a whole bunch of individual amounts of money every two years or every year.

You wouldn't have these appropriation bills with dollar amounts for lots of different things. It would be, well, we're going to dedicate the inheritance tax to doing this or that. It was a matter of saying, you can spend whatever money gets raised by this tax source for these functions. Which is a bad way to budget, and one of the things that I think Pillsbury was working to change. But it really didn't get changed until the 20th century.

**PIM:** Let's talk a little about the history of unallotment. You mentioned to me previously that this power was granted in 1939 under then-Gov. **Harold Stassen** (pictured at right). What were the circumstances?



**Michael:** That's something I don't know a great deal about. I've never tried to dig back--you'd have to look through the newspaper from that time and that sort of thing. Just as a matter of context, before the '30s the source of funding for state government was largely the property tax, which is of course a levy-based tax. So the Legislature could set the amount of the tax and it would get spread across the properties in the state. There were a few other sources [of revenue]--the gas tax was passed in the 1920s. There was an inheritance tax. There was mortgage-and-deed tax. That kind of stuff.

But in the '30s, in response to the Depression, there was a fundamental change in state revenue systems. Minnesota enacted the income tax and the corporate income tax in 1933, when **Floyd B. Olson** was governor. That sort of changed the dynamic of budgeting, because now you had an uncertain revenue source that would vary with economic conditions.

I think Stassen simply recognized the reality that you would have to have a mechanism in place to deal with that uncertainty of not knowing exactly where revenues were going to come in. And in 1937, there was a big [downturn]. The Depression was bad for the whole period of the '30s, but if you look at the details of it, there were big cycles up and down. And 1937 was a big cycle down. Most economic historians say it was a mistake by the [federal] government, where they thought we were coming out of the Depression and the natural response at the federal level--we weren't Keynesians yet--to cut back on deficit spending and balance the budget.

So there was a fairly steep recession in 1937. And this is just my hypothesis, but I'm sure that was reflected in state income tax collections. And Stassen saw that and said, hey, we've got to have a mechanism in place that lets us automatically adjust spending to reflect our revenues. And we have to do it in advance, not just wait until we don't have the money and then stop making payments. Without having the government documents to confirm it, that's my hypothesis about what Stassen had in mind.

**PIM:** Unallotments have been used pretty sparingly until recent history. Has anybody ever used unallotments to balance the budget, as opposed to--

**Michael:** You mean like [Gov. Tim] Pawlenty's going to do now?

**PIM:** Yes.

**Michael:** To my knowledge, no. That's a new one on me. Since the 1980s, I'm aware of five unallotments, and none of them obviously fit into that category. They were all mid-budget period. And if you read the statute, the first sentence is sort of an "if" statement. If revenues are less than anticipated, then you can adjust the biennial spending. And so it seems like whoever wrote it had that circumstance in mind. You're in the budget period, and gee, you're not collecting as much revenue as you thought you would. So then you've got to draw down reserves and adjust spending plans to eliminate the deficit.

Whereas now, we're in this other sort of situation where the Legislature passed spending bills, and there wasn't enough revenue because the governor vetoed the tax increases. And he's going to use [unallotment] to balance the budget in that context. That "if" statement [in the law] is probably satisfied, because revenues have declined from the February forecast. So he's probably on good ground in saying they're likely to be lower.

Then the question is, does that [power] extend to balancing the budget with regard to the part of the revenues that we did anticipate weren't going to come in and we just never budgeted for them? As opposed to just an unanticipated drop in revenues. Because there are two components here: One is that we know from the February forecast that the lion's share of this were anticipated drops in revenue.

That's sort of a legal question as to exactly what the statute means, and whether it does address this [2009] context or not. I think you can make reasonably good arguments both ways.