

Unallotment Conflict 2009-2010

Peter S. Wattson
Senate Counsel
Secretary of the Senate (Legislative)
State of Minnesota

Minneapolis, Minnesota
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Introduction

- The Statute
- Governor's Actions - May 2009
- Allotment Reductions - July 2009
- *Brayton v. Pawlenty*
 - Complaint - November 2009
 - Decision - May 2010
- Close of 2010 Session
- Impact on Legislative Process

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Statute

Minn. Stat. § 16A.152, subd. 4

- Governor Stassen - 1939
- Probable receipts less than anticipated
- Amount available less than needed
- No limit on reductions
 - Amount
 - Percentage
 - Programs

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Historical Precedents

- Governor Al Quie
 - August 1980 - \$195 million
 - November-December 1981 - LGA
- Governor Rudy Perpich
 - April 1986 - \$109 million
- Governor Tim Pawlenty
 - February 2003 - \$278 million
 - December 2008 - \$269 million

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Governor's Actions - May 2009

- \$4.6 billion deficit - February 2009
- Legislature reduced it to \$2.7 billion
- Governor's actions
 - Signed all appropriation bills
 - Vetoed tax bill
 - \$1 billion in taxes
 - \$1.8 billion delay in payments to school districts
 - Use unallotment to balance budget without special session

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Allotment Reductions

July 2009

- 2009 revenue down \$70.3 million
- Reduce 2010-11 spending \$2.7 billion
 - \$2.5 billion allotment reductions
 - \$210 million executive actions
 - \$106 million Wisconsin income tax reciprocity
 - \$63 million delay in capital equipment tax refunds
 - \$42 million delay in corporate income tax refunds

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Brayton v. Pawlenty

Complaint - November 3, 2009

- Minnesota Supplemental Aid - \$69 M
- Special Diet Program - \$5.3 M
 - SSI participants
 - Physician's orders for special diet
 - Cash payments
 - Allotment eliminated beginning November 1
- Temporary restraining order - Dec. 30
- Expedited appeal

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Brayton v. Pawlenty

Decision - May 5, 2010

- Legislature makes the laws
 - Subject to Governor's veto
 - Bills
 - Items of appropriation
- Whatever enacted, Governor must faithfully execute
- Unallotment available only after balanced budget enacted

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Brayton v. Pawlenty

Concurrence

- Statute too broad & uncircumscribed
- May be unlawful delegation of legislative authority

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Brayton v. Pawlenty

Dissent

- Statute unambiguous
- No requirement that balanced budget first be enacted
- Revenue for 2009
 - \$70.3 million less than anticipated
- Revenue for 2010-11
 - \$2.7 billion less than needed
 - Not sufficient to fund Special Diet Program

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Close of 2010 Regular Session

- May 10 - HF 2037
 - Allotment reductions void
 - \$2.4 billion appropriation reductions & transfers
 - \$434 million income tax increase
 - Vetoed
- May 16 - HF 3834
 - \$2.8 billion appropriation reductions & transfers
 - Early enrollment in Medical Assistance
 - Veto threat

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2010 Special Session

- May 17 - HF 1
 - \$2.8 billion appropriation reductions & transfers
 - Early enrollment in Medical Assistance not implemented unless
 - Pawlenty executive order to implement
 - Successor's executive order by January 15, 2011

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Brayton v. Pawlenty

Impact on Legislative Process

- Governor compelled to work with Legislature
- Budget balanced
 - Expenditures delayed until next biennium
 - \$2 billion payments to school districts
 - \$152 million corporate tax refunds
 - Cash shortages this biennium?
 - \$312 million transferred from other funds
 - \$84 million from cash flow account

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2011 Session

Unallotment Reform - SF 2566

- 2% of general fund appropriations
- 10% of a single appropriation
- Not eliminate any program
- No change in formulas or eligibility
- Proportional across all recipients

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