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Money Matters

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1997 Flood Relief

Details of Emergency Flood Relief Legislation

Abstract: This Money Matters paper provides detail of the overall flood relief package proposed by the Governor's Recovery and Redevelopment Planning Council. Part one of this paper provides a description of emergency flood assistance passed during the regular 1997 session. Part two of this paper summarizes the total flood relief package and the flood relief act, as passed by the 1997 Legislature, during the second special session.

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Introduction

Nearly four months after the 1997 spring floods in the Minnesota River Valley and Red River Valley, the 1997 Legislature assembled during the second special session to approve an emergency flood relief package for flood victims. Over fifty of Minnesota's eighty-seven counties were designated as major disaster areas, although certain counties incurred more flood damage than others. The total estimated loss and damage to infrastructure and property caused by the 1997 floods is expected to cost several millions of dollars.

Preliminary flood disaster aid was approved during the regular 1997 session. A more comprehensive flood relief package was presented to the Legislature by the Governor's Recovery and Redevelopment Planning Council during the second special session.[1] This package became the framework of the flood relief act, containing $55 million in bonding authorization for the replacement and repair of publicly owned infrastructure and $1 million in petroleum tank release funds for land acquisition and buyout of homes damaged by the release of petroleum. The fiscal actions recommended by the Governor's Council are expected to accomplish several objectives, such as (1) to provide emergency fiscal assistance to flood victims and communities until the 1998 session begins, (2) to leverage federal FEMA dollars in match programs to the fullest extent, and (3) to maximize state and local investment in redevelopment efforts.[2] A summary of the events leading up to the second special session on flooding and a description of the flood relief legislation proposed by the Governor's Recovery and Redevelopment Council follows.

Part One

Flood Disaster Aid Legislation before the Second Special Session

Prior to the flood relief package, two bills for emergency expenditures relating to disaster flooding totaling $24 million passed during the regular 1997 legislative session. The first bill, Chapter 12, appropriated $3 million from the general fund to the Department of Public Safety for state match to federal disaster funds. The Legislature passed that first bill early in the 1997 session in anticipation of spring flooding after record snowfall throughout the state.

The second flood assistance bill, Chapter 105, contained two expenditures: (1) $20 million was appropriated from the budget reserve in the general fund to the Department of Public Safety for reimbursement to counties, cities, and towns and to individuals or families for individual/family grants, and (2) $1 million was appropriated from the budget reserve in the general fund to the Department of Finance to state agencies for flood-related costs. The Legislature passed the second bill toward the end of the 1997 session after over fifty counties were declared presidential disaster areas as a result of spring floods.

Finally the 1997 Health and Human Services Omnibus Bill, Chapter 203, amended the second flood bill, Chapter 105, to allow up to $492,700 to be available to transfer to the Department of Human Services for the state costs associated with total replacement of the nursing homes in Norman and Polk Counties.

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1 On May 9, 1997, Governor Arne Carlson issued executive order 97-15 providing for the establishment of the Governor's Recovery and Redevelopment Council. The Council was chaired by Minnesota Department of Commerce Commissioner, David Gruenes and was composed of four legislative members, two mayors, two county commissioners, and four public members.

2 SOURCE: For the Protection, Wealth & Safety of Minnesotans. Recommendations by the Recovery and Redevelopment Council, August 1997.

Between the two flood assistance bills, there was a total of $23 million available to the Department of Public Safety and $1 million for the Department of Finance for state costs associated with flood relief during the regular 1997 session.

Part Two

Flood Relief Act Approved by the Legislature During the Second Special Session

The flood relief act (1997 Laws, Second Special Session, Chapter 2) contains $56.3 million in new spending for flood relief. Of the $56.3 million appropriated, $55.3 million is from general obligation (G.O.) bonding and $1 million is from petroleum release funds. In addition to these requests, the Council outlined $135 million of other state resources potentially available for flood relief efforts.

Major facets of the overall flood relief package include: (1) reallocation of appropriated general funds from previous flood legislation, (2) new spending requests, (3) legislative intent for future bonding, (4) existing state agency resources allocated for flood relief, and (5) other assistance.

Funds provided in the flood relief act, for the most part, will pass through state agencies. With the exception of the state match for federal disaster funds, state agencies will allocate the funding provided in this act to counties declared major disaster areas based on need. The total damage in the counties of Kittson, Marshall, Polk, Norman, Clay, and Wilkin was so extensive that federal assistance for the cost of eligible damages caused by the 1997 floods is 90 percent, whereas in the other affected counties, the federal assistance for the cost of eligible damages approved by the Federal Emergency Management Agency (FEMA) is 75 percent.[3] It is expected that the bulk of state bonding and reallocated general funds provided in this act will be directed to these six counties listed. Except for state FEMA matching assitance, flood relief funds may only be accessed after FEMA funds and Small Business Assistance (S.B.A.) Loans have been denied to individuals and communities.

TABLE 1. Overview of Total Flood Relief Package

State Flood Assistance	$ in thousands
New Bonding Requests (Flood Relief Act appropriations)	$55,300.
New Spending Request, Petroleum Tank Release (Flood Relief Act appropriation)	$1,000.
Legislative Intent For Future Bonding	$23,900.
Reallocation of Previously Appropriated Funds (Flood Relief Act appropriations)	$20,300.
Reallocation of Savings Incurred from Federal Welfare Reform Changes for a ICF/MR Reimbursement Schedule Adjustment.	$44.
Existing State Resources Allocated for Flood Relief	$34,000.
Estimated Total Flood Relief Package	$134,544.

[3] SOURCE: 105th Congress, 1st Session, Balance Budget Act of 1997 Conference Report, H.R. 2015, Sec. 9301, Temporary Share Formula Adjustment.

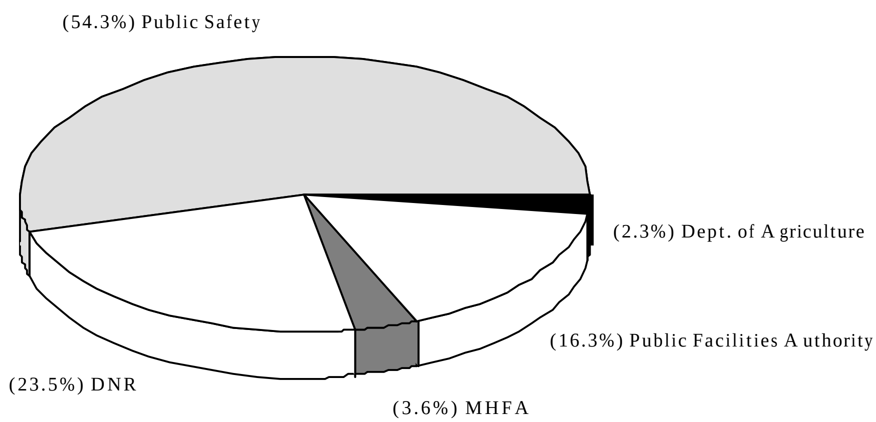
New Spending Requests in the Flood Relief Act

The flood relief act includes a one-time appropriation of $1 million from the petroleum release tank clean-up fund to the Department of Trade and Economic Development (DTED) for grants to buyout property substantially damaged by petroleum tank release. This appropriation will not, in any way, reduce the funding for the clean-up of petro contaminated brownfields, which is a separate statutory appropriation.

The flood relief act also authorizes slightly over $55 million of new G.O. bonds for an assortment of public projects. G.O. bond proceeds may only be used on capital projects that have public ownership. According to Article XI, Section 5 of the Minnesota Constitution, public debt may be contracted "to acquire and to better public land and buildings and other public improvements of a capital nature." A few exceptions to this rule are provided by the Constitution, including issuing debt for the protection of the state's agricultural resources, which would be exempt from public ownership requirements.

The distribution of the bond proceeds appropriated in the flood relief act is illustrated in Chart - A.

CHART A. Distribution of G.O. Bonds in Flood Relief Act



NOTE: $55,000 appropriation for bond sale expenses not included in pie graph.

- $30 million is to Public Safety for 100 percent of the non federal match to leverage FEMA public assistance for the repair and replacement of damaged public infrastructure such as schools, roads and bridges.
- $13 million is to the Department of Natural Resources (DNR) of which $5 million is for hazard mitigation and public land acquisition of damaged homes in the flood plain, $5 million for low interest loans to local governments to flood proof public facilities, and $3 million for levee repair, ring dike construction and flood protection planning.
- $2 million is to the Minnesota Housing Finance Agency (M.H.F.A) for local government loans for the construction of multi-unit public housing.

- $9 million is to the Public Facilities Authority of which $4 million is for loans to local governments for the repair and replacement of damaged infrastructure and $5 million is for the construction of new infrastructure outside of the flood plain.
- $1.2 million is to the Department of Agriculture for loans to farmers to repair and replace fixed farm assets.
- $55,000 is to the Department of Finance for bond sale expenses.

Several legislators expressed concern over using bonds to pay for flood relief expenses and how these expenditures would affect the state's finances. There are a few Governor's policies in place used to control the amount of bond spending, which often is referred to as the "3% guideline" and three rules-of-thumb that are followed. The first and most often quoted is that state debt service not exceed 3 percent of non-dedicated revenue in a given year. Currently, debt service is at 2.6 percent of non-dedicated revenues. Second, general obligation debt of the state should not exceed 2.5 percent of aggregate personal income. Third, state agency debt should not exceed 3 percent of aggregate personal income. In all three cases, state debt falls well within these guidelines, even with the addition of $55 million for flood relief.

Before the special session, state bond capacity using these three guidelines was at slightly over $700 million. The flood relief act leaves a capacity of over $640 million. Although recommendations are not due out until January, it is widely believed that the Governor will proceed with a full $500 million bonding bill in the 1998 session. In other words, the flood package may not result in any reductions in next year's bonding bill. The only immediate effect of the flood relief act will be an increase of $5 million for debt service payments in fiscal 1998.

There was also some concern expressed over using bond proceeds when cash was available to pay a large portion of the costs. At the time the package was debated, the Department of Finance (DOF) estimated that a new issuance of bonds would be sold at an interest rate of 5 percent. The state is currently earning 5.5 percent on general fund cash on hand (invested treasurers cash). In the short run, the state is saving money by using bond proceeds over cash. DRI/McGraw-Hill, the state's economic forecasting consulting service, predicts that cash reserves will continue to earn greater than five percent for at least the next two years. It is impossible, however, to predict the added costs or savings in using bond financing, rather than cash, over the twenty year life of the bonds.

Reallocated General Funds from Previous Flood Legislation

The Governor's Council did not recommend any new general fund appropriations for flood relief. Instead the Governor's Council recommended reappropriating general fund allocations, originally designated during the 1997 session for the state match to federal disaster funds, to help fill in the funding gaps in areas where FEMA assitance and flood relief bond proceeds could not be applied.

In the flood relief act, $19.7 million of the $20 million appropriated in Chapter 105 for reimbursement to counties, cities, towns and individuals for the 1997 floods was canceled and returned to the general fund. The flood relief act also canceled and returned $600,000 of a $1 million appropriation to the general fund to state agencies for flood related costs. After these cancellations, $20.3 million was available to be reappropriated.

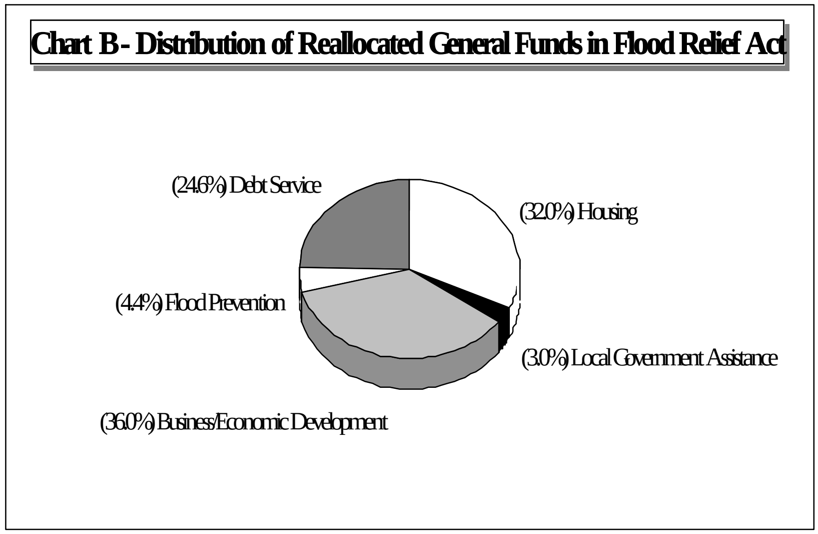
The distribution of the reallocated general funds in the flood relief act is illustrated in Chart B.

Of the $20.3 million in general funds available to be reappropriated, the flood relief act makes a one-time appropriation of $7.3 million for business assistance and economic development:

- $6 million is to DTED for the Minnesota Investment Fund to local units of government for locally administered operating loan programs for businesses affected by the floods;

- $1.2 million is to DTED for Border City Enterprise Grants for communities, at risk of losing their tax base due to the 1997 floods, to abate sales, property and income taxes for up to 15 years;

- $100,000 is to the Strategic and Long-Range Planning Department for grants to communities and non-profit organizations to develop an application for a federal empowerment zone and enterprise credits, which could potentially provide financial incentives for development and job creation.



Of the $20.3 million available to be reallocated, the flood relief act also makes a one-time appropriation of $6.5 million from the general fund for the construction and rehabilitation of single family housing and rental housing:

- $4.5 million is to MHFA's Community Rehabilitation Fund (CRF) for gap financing and lot purchase incentives. Of this amount, $500,000 is earmarked for grants for damages to homes incurred after June 10, 1997 in a presidentially declared disaster area. The intent of this rider is to target funding for the metropolitan area affected by the July 1997 floods.

- $2 million is to MHFA's Affordable Rental Investment Fund (ARIF) to allow forgivable loans to be made in communities for the rehabilitation of rental housing units.

Finally, the flood relief act makes a one-time appropriation of $600,000 to the Department of Revenue (DOR) for local governments experiencing a significant loss in property tax base, loss of revenues, and for those experiencing difficulty meeting debt service obligations:

- $20,000 is to DOR to reimburse local governments for uncollected property tax obligations in jurisdictions with flood related market value loss;

- $230,000 is to DOR for local governments in Big Stone, Chippewa, Clay, Kittson, Lac Qui Parle, Marshall, Polk, Wilkin and Yellow Medicine counties to pay for the payable 1998 property taxes of homes bought out from the 1997 floods. $350,000 is also to DOR to local governments in the counties listed above for reimbursement for abatements granted for taxes payable in 98.

In addition to the bond proceeds authorized for the construction of ring dikes, the flood relief act also makes a one-time appropriation of $900,000 to DNR for a fifty percent state match to assist watershed districts with the construction of 60 ring dikes. Each ring dike is estimated to cost approximately $30,000.

The remaining $5 million of the $20.3 million available to be reappropriated is for debt service. This appropriation increases the total debt service obligation for G.O. bonds to $565.5 million for the FY 98-99 biennium.

Although the reappropriated general funds in the flood relief package will not leverage any additional FEMA funds, they may be used to leverage local government funding and funding from other federal and private sources. The appropriation for empowerment zones/ enterprise credits, for example, may leverage special tax breaks for businesses and communties. Other appropriations expected to leverage local government funds and private contributions include the appropriations for ring dike construction and housing.

Legislative Intent for Future Bonding

The flood relief act contains language that the Legislature give funding *consideration* to federally authorized flood control projects, as well as flood control projects approved by the Department of Natural Resources, in the 1998 Capital Improvement Bill. The cities of Marshall, Stillwater, Crookston, Warren, and East Grand Forks received federal authorization for flood control projects in the Water Resources Development Act. The Governor's Council estimates that $23.9 million in G.O. bonding authority may be needed as a state match to leverage approximately $140 million in federal funds for flood control projects in these five cities. Congress is expected to fund flood control projects in those cities in 1998. However, the flood relief act does not contain an appropriation for bonding authority, because the exact amount needed as a state match to leverage federal funds will not be known until after Congress makes funding decisions next year.

Existing State Resources Allocated for Flood Relief

Total state agency resources allocated from existing state and federal funds for flood relief are listed in Table 2. The resources listed below are not new appropriations. Rather, they are amounts used by agencies for flood relief from their regular FY 97 and FY 98 state and federal budgets.

TABLE 2. Existing State Resources Allocated by State Agencies for Flood Relief

Agency	Amount (in millions)	Source	Usage of Funds
DOT	$7.1	Trunk Highway	Road/Bridges
DNR	$4.0	G.O. Bonds	Flood Mitigation/ Damage Reduction
DTED	$4.0	General Fund & Federal Funds	Business operating loans and loans for working capital
MHFA	$8.9	General Fund & Federal Funds	$4.3 million for 0 % interest deferred loans for the production & rehab of rental housing, $1.47 million for gap financing & lot purchase incentives, $3.14 million of HOME funds for single family rehabilitation.
MnScu	$1.5	General Fund	Snow & flood related costs
CFL	$4.8	General Fund	$4.7 million for pupil aid replacement assistance and $85,000 for a child care provider in East Grand Forks, Tri-Valley Opportunity Council.
Public Safety	$3.3	General Fund	Individual and family grants/assistance
DOF	$ .4	General Fund	State agencies flood related costs

Grand Total	$34 million

Other Forms of Assistance

In addition to the bonding and General Fund appropriations described above, the act provides a variety of other forms of assistance. Those other forms of assistance include changes in the property tax classification law, acceleration of state aid payments to local governments, special rules for a special service district to finance flood control works, and an adjustment to ICFs/MR operating cost repayment schedule for some providers.

Agricultural Homestead Property Tax Classification. The flood relief act loosens the restrictions on the property tax classification of certain agricultural property, provided the property owner notifies the county assessor before the deadline. The 1997 flood may force some farmers to abandon their farm houses and move into dwellings within nearby cities. Under existing law, farmers moving into cities would forfeit the agricultural homestead property tax classification of their agricultural land, because homesteads in cities are classified as residential rather than agricultural homesteads.

The act provides that land that was classified as agricultural homestead land for the 1997 assessment year will continue to qualify for that classification, even if the owner has moved into a homestead in a city, if all of the following conditions are met:

- the property owner was forced to abandon the agricultural homestead as a result of the April 1997 floods;
- the property is located in Polk, Clay, Kittson, Marshall, Norman, or Wilkin counties;
- the property is owned by the same owner who owned it for the 1997 assessment year;
- the property owner's new homestead is located in Minnesota and is within 30 miles of the property;
- on or before December 1, 1997, the property owners notifies the assessor that he or she has moved to a new homestead as a result of the 1997 floods, and the owner provides the assessor with any information the assessor requests to verify the change in homestead.

Acceleration of State Aid Payments. Cities, towns, and counties may need to spend more on infrastructure repair and additional services during the early months of 1998 as a result of the flood. The flood relief act provides that a local government in one of the counties most impacted by the floods may apply to the Commissioner of Revenue to receive the payments of Local Government Aid ("LGA," which is for cities only) and Homestead and Agricultural Credit Aid ("HACA," which is for cities, towns and counties) ahead of schedule. Local governments are eligible to apply if they are located in Big Stone, Chippewa, Clay, Kittson, Lac qui Parle, Marshall, Norman, Polk, Wilkin, or Yellow Medicine counties.

If the commissioner approves the application, the local government will receive half of its state aid on March 15 and the other half on July 20, 1998. Under existing law, the local government would receive half on July 20 and the other half on December 26, 1998. The acceleration of aid payments will not increase the amount of state aids local governments receive, but it can alleviate cash flow difficulties and reduce short-term borrowing costs.

The acceleration of payments will not increase state spending on aids programs, but it will have an impact on the state budget. Paying aids on March 15 that would have been paid on December 26, 1998 increases the cost of the aids programs in FY 98, and decreases the cost by the same amount in FY 99. The state's cash flow reserve, however, will cover that temporary shift in spending to FY 98 from FY 99.

Crookston "Flood Control" District. The flood relief act authorizes Crookston to create a special service district to fund destruction or removal of structures and construction of flood control works, and exempts that "flood control" district from some of the provisions of the special service district law. The district is exempt from the requirement that the process for creating it be started by property-owner petition, which allows the city to start the district-creation process. Existing law authorizes owners of commercial, industrial or public utility property to petition a city to create a special service district, which allows the city to impose an additional property tax or fee on all commercial/industrial/public utility property within the district to fund additional infrastructure or services. The district is exempt from the requirement that the process for creating it be started by property-owner petition, which allows the city to start the district-creation process. The flood relief package requires the district to be approved by a four-fifths majority vote of Crookston's city council and all flood control works funded by the district must be approved by the Commissioner of Natural Resources. Any property tax or fee imposed to fund the flood control works will be imposed on all property within the district, not just on commercial/industrial/public utility property. The duration of the "flood control" district is limited to twenty years.

School Reconstruction. The flood relief act has a provision which exempts the East Grand Forks and Ada-Borup School Districts from the requirement that they comply with the competitive bid process, under existing law, when entering into school reconstruction contracts. The exemption from the competitive bid process will allow contracts to be entered into and reconstruction work to begin at an earlier date than would be possible if compliance with the competitive bid process were required.

The act also gives school districts which meet certain requirements the authority to impose an extra property tax levy to fund the cost of "betterment" of schools that are being reconstructed to correct flood damage. Only the Minneapolis school district meets the requirements. The additional levy is limited to two percent of the district's 1995 adjusted net tax capacity.

ICF/MR Reimbursement Rates Adjusted. The flood relief act contains a provision that allows 6 ICF/MR provider facilities located in Polk and Norman counties and affected by the 1997 floods to be reimbursed based on previous year's reimbursement rates, which are higher than what the providers would have otherwise received. Without this adjustment, affected providers would have received lower reimbursement rates (effective October 1, 1997) and would have found it difficult to continue to operate in the aftermath of the severe weather under the new reimbursement rates. A portion of the savings generated from the recent federal restoration of supplemental security income (S.S.I.) benefits to legal non-citizens which would have been transferred to the Minnesota Family Investment Plan - Statewide/ Temporary Assistance to Needy Families (MFIP-S/TANF) reserve account, will be used to implement this adjustment.

Conclusion

The flood relief package recommended by the Governor's Recovery and Redevelopment Planning Council and passed by the Legislature is expected to augment close to $400 million in federal FEMA assistance and help fill in funding gaps not covered by federal sources. With the passage of the flood relief act, short-term emergency aid to flood victims and communities will now be available. Long-term aid and flood mitigation issues are expected to be addressed by both the House and Senate Committees during the 1998 session.

For more information about the 1997 Flood Relief Package, contact: Cynthia Coronado at 296-5384, John Walz at 296-8236, or Bill Connors at 296-5813.