

# SESSION WEEKLY

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## Special Session Issue

# Help is on the way

Flood relief package for 19 Minnesota counties receives unanimous support from House, Senate members

By **MIKE COOK**

**M**ore than three months after floodwaters ravaged parts of the state, help is on the way.

On Sept. 19, the Legislature, convened in special session, approved nearly \$32 million in relief for the 19 counties damaged by severe storms and heavy rains in June. Sixteen of those counties are in the northwest portion of the state, plus McLeod and Wright in central Minnesota and Goodhue in the southeast portion of the state.

The House passed the measure 129-0 and the Senate 63-0, where it was sponsored by Sen. LeRoy Stumpf (DFL-Thief River Falls). It awaits the signature of Gov. Jesse Ventura.

“This sends a message that the state is committed to providing assistance,” said Rep. Maxine Penas (R-Badger), the House sponsor. “It gives people hope.”

Penas said the aftermath of the June 9-11 storm is the most grim in Roseau where damage is so far estimated at \$100 million, with more likely this winter as home foundations begin to crack. She said 80 percent of the homes in Roseau were damaged or destroyed, along with 100 businesses, affecting 1,800 families.

The bill is similar to the legislation passed during the 1997 special session that brought aid to communities in the Red River basin.

Of the 2002 funding, \$29.4 million is in new appropriations and \$2.35 million in the reallocation of current funds. More than \$16 million of new monies are from additional bonding, and \$10.1 million will come from the cancellation of general fund money appropriated in 2000 for road construction. The remainder comes from trunk highway funds (\$2 million) and fuel contaminated property assistance (\$1 million).

The largest chunk of new funding is

*Continued on next page*



PHOTO BY TOM OLMSCHIED

Rep. Maxine Penas presents a flood relief package during a special session of the Legislature Sept. 19. The bill, which Penas sponsored, provides nearly \$32 million in aid to 19 counties damaged by June flooding.

### Flood relief package allocations and funding source (general fund unless otherwise noted)

• State match for federal funds: \$8.3 million (bonding)	
• Property tax relief, for homeowners who lost at least 50 percent of home value	\$1 million
• Agriculture aid, for farmers with crop yield or quality loss	\$3 million
• Business assistance	\$3 million
• Housing assistance, including repair, new construction, or refinancing	\$3 million
• Publicly owned rental housing	\$1 million (bonding)
• Public infrastructure assistance, such as storm sewers, water, and wastewater systems	\$2 million (bonding)
• Fuel contamination assistance	\$1 million (petroleum fund)
• Local road and bridge assistance	\$5 million (bonding)
• Roseau schools flood declining enrollment aid for 2003	\$40,000
• Roseau schools flood declining enrollment aid in future years	\$60,000
• Bond sale expenses	\$30,000 (bonding)
• State roads and bridges	\$2 million (trunk highway fund)
• Conversion of transportation funding to bonding	\$10.1 million
<b>Total new appropriations</b>	<b>\$29.4 million</b>
• Re-allocation of flood replacement aid	\$350,000
• Re-allocation of flood prevention/control bonds	\$2 million
<b>Total funding in flood relief package</b>	<b>\$31.8 million</b>

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\$8.3 million to match the federal emergency funds. "This includes all of the state and local share," Penas said. Under the program the federal government provides 75 percent aid, and state and local governments provide 25 percent. Usually such aid requires a 10 percent local contribution.

For businesses, \$6 million of relief is on the way, half of which comes from the state's general fund for grants or loans to businesses adversely affected by the flood. If a business is in a tax increment financing (TIF) district, it may request to have its net tax capacity adjusted for the first taxes payable year, and \$1 million is directed for cleanup of buildings where the damage can be related to petroleum contamination.

Of the reallocations, \$350,000 is designated for flood replacement aid and \$2 million in bonding for flood mitigation. The latter raised some eyebrows at a House Ways and Means Committee hearing early Sept. 19 since that money was previously allocated in the bonding law approved during the 2002 regular session.

Ventura decided, upon signing the law in May, to withhold authorization to sell bonds for half of the \$30 million of flood mitigation grants approved by the Legislature. Once those funds are released, the bill would allow flood mitigation efforts associated with this bill to be considered along with previously approved projects.

While understanding the needs of flooded areas, Rep. Margaret Anderson Kelliher (DFL-Mpls) noted that the northwestern Minnesota projects included in the flood relief bill did not go through the proper channels required for the other projects during the 2002 regular session.

"The problem in northwest Minnesota is of an extreme nature," said Louis Jambois, a senior executive officer with the Department of Trade and Economic Development. He also noted that the projects would likely rank higher than those previously scheduled to receive funding.

Rep. Ted Winter (DFL-Fulda) proposed an amendment to the bill that would have provided assistance for Jackson, Nobles, and Rock counties in southwest Minnesota where farmers anticipate losing millions of dollars as a result of drought conditions. No federal disaster declaration has been issued for the area, but Winter said he expects the federal government will ultimately declare a disaster for the area, since the counties meet the 30 percent loss threshold.

"A lot of people are trying to figure out how to make it in farming," Winter said. "We also need to give them some hope."

Rep. Tim Finseth (R-Angus) said it is not legislative practice to do assistance packages until a disaster area is declared, and Rep. Elaine Harder (R-Jackson) said the special session was called only to deal with flood relief. The issue was ultimately ruled not germane to the flood bill by the full House.

## Disaster declared

### Waves of rain caused record-high flooding, damage in Roseau and northwestern Minnesota

The rain began falling in the early morning hours June 9 and didn't stop for two days. A virtually stationary storm dumped as much as 14 inches of rain in the northwestern Minnesota region, where the smaller streams and rivers feed the Red River of the North.

A little rain may have seemed like a blessing to the region, which indexes showed was experiencing moderate drought. But heavy downpours prompted smaller streams to spill their banks, and the parched soil could not absorb the volume of water created by the rains.

Roseau suffered the worst of the damage, according to a report from the U.S. Geological Survey. About 95 percent of the town was inundated by water as a result of the storm.

About 7,500 people live in and near the city.

The Roseau River rose to a level more than three feet higher than the previous peak stage. Peak water discharge from the river was 120 percent greater than the previous high, set in 1996.

According to the U.S. Geological Survey, the levels along the river during the June 9-11 storm are the kind that only occur every 200 to 500 years.

Ada, just downstream from Twin Valley on the Wild Rice River, also suffered extensive damage.

Climatologists describe the event as "extraordinarily rare" in its intensity. Gov. Jesse Ventura declared a state of emergency on June 11 and called the National Guard to active duty to provide aid to 10 counties in the region.

President George W. Bush designated Roseau County as a major disaster area on June 14, making the area eligible for federal emergency aid. Another 12 counties were added later.

And it was only the first significant wave of rains to trouble the region. On June 22, the rain returned, and it kept coming until the morning of June 24.

While the first June storm affected the northern two-thirds of the Red River Valley in northern Minnesota, the second wave struck areas to the south, which drain north, further exacerbating the initial flooding.

The U.S. Geological Survey report summarizing the flooding noted the unusual nature of the incident, because it wasn't connected either to heavy snowpack, a late spring blizzard or thaw, or the remains of high precipitation from the previous fall. Those characteristics are typically the cause of flooding in the region, as the tributaries in the Red River basin fill with snowmelt and feed the main channel of the river. Such was the case with record flooding in the valley during the past decade.

In fact, figures show that the rivers in the area have only ever reached their highest levels during the stretch from March to May. The levels experienced in June on the Marsh, Wild Rice, Thief, Clearwater, and Roseau rivers surpassed those of prior spring flooding incidents.

The Red River itself did not reach peak stage during the June flooding, nor was it near peak stage during the event at many measuring stations.

Additional flash flooding in Wright and McLeod counties, just west of the Twin Cities metropolitan area, washed out roads and bridges and caused damage to communities.

A total of 19 counties were eligible for some form of federal aid as a result of the rains. The Federal Emergency Management Agency and Small Business Administration helped disburse a number of different types of aid, including temporary rental assistance, public assistance (for public facilities), and low-interest disaster loans. Farmers were also eligible for state loan and advocate programs.

About \$5 million in federal housing grants, and another \$19 million in low-interest disaster loans have thus far been disbursed to the northern Minnesota counties.

The federal public assistance programs are specifically intended to help communities rebuild public infrastructure, such as sewer systems and other public functions. The program provides 75 percent aid, and it requires that state and local governments provide the additional 25 percent.

In addition, the state has coordinated disaster

unemployment aid and other grants and aid programs for business and individuals affected by the flooding.

As of Sept. 15, nearly \$1 million in disaster unemployment benefits have been paid to Minnesotans, according to the state Department of Economic Security.

The U.S. Department of Labor awarded a \$2.5 million grant to the state to fund temporary jobs in the region to clean up flood debris and assist with flood prevention efforts and repair work.

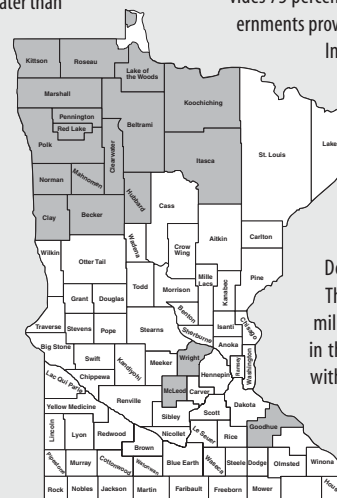
State emergency management reports estimate damage to public facilities in the floods at least \$11.5 million and crop/livestock and farm structure loss at about \$103 million. Of the housing and family grants disbursed to 14 of the counties affected, nearly 80 percent went to the residents of Roseau County.

Farmers were already dealing with moderate drought conditions in northwestern Minnesota and several thousand acres were not planted at all during 2002 due to the combination of the drought and the floods. According to the Minnesota Farm Service Agency, a division of the U.S. Department of Agriculture, the floods resulted in a \$137 million loss to the agriculture economy.

On Sept. 6, Ventura provided a \$500,000 grant for the city of Roseau to install a backflow system in its storm and sanitary sewer systems and pumping stations. Sewer systems in the city were severely damaged during the floods. Other communities throughout the affected region experienced similar sewer overload and backup problems, according to the state's Division of Emergency Management.

City buildings in Roseau sustained \$1.3 million in damage from the floods, including significant damage to Memorial Arena, the city's library/museum, the police and fire departments, and the city offices and auditorium.

The Minnesota Recovers Task Force, assembled June 20, involves 23 state and federal agencies that are providing various services to the flood-afflicted areas. The group continues to meet on a weekly basis regarding the ongoing efforts.



The 19 shaded counties were declared federal disaster areas after flooding in June.

(M. KIBIGER)

# Charitable deductions

## Legislature votes to allow taxpayers the option of deducting some charitable contributions

By DAVID MAEDA

The alternative minimum tax was originally created to address concerns that some of the nation's wealthiest individuals, using legal deductions and other income exclusions, were paying little or no income tax.

What it ensures is that individuals who capitalize on certain available tax deductions, which theoretically may erase all income tax burden, still pay some tax. That alternative minimum tax is then calculated using a structure with a broader tax base and lower rates.

Charitable contributions qualify as one type of deduction taxpayers may make from their income tax obligations. And a recent Minnesota Supreme Court ruling, which removed the tax deductibility of charitable contributions made by Minnesotans who are required to pay the state's alternative minimum tax, raised concerns that contributions made to nonprofit organizations could be significantly reduced if taxpayers are no longer allowed to deduct them.

Legislators passed a bill Sept. 19 redefining the threshold of deduction for charitable contributions on taxes paid after Dec. 31, 2001. The bill would allow affected taxpayers to deduct contributions of more than 1.3 percent of their federal adjusted gross income.

Rep. Ron Abrams (R-Minnetonka), sponsor of SSHF2, said the bill is a temporary solution that addresses concerns raised by the court decision, adding that the issue would likely be addressed further next session.

"This is a one-year solution to a very bad problem," he said.

A federal minimum tax was established in 1969 and the state adopted a similar tax in 1977. In Minnesota, taxpayers first calculate their regular tax liability and then determine whether they owe the alternative minimum

tax. If the alternative minimum tax is higher than the regular tax, the taxpayer pays the difference between the two amounts.

Previously the state's alternative minimum taxpayers were allowed to deduct charitable contributions made only to Minnesota-based charities. But a case brought before the state tax court ultimately led to the Supreme Court ruling that no charitable donations, regardless of where the charity is located, could be deducted in calculating the state alternative minimum tax.

Insurance executive R. Austin Chapman and his wife, Nadine, unsuccessfully brought a case before the state's tax court in October 2001 after the Department of Revenue ruled the Chapmans owed more than \$145,000 on \$1.6 million in contributions made between 1994 and 1996 to a Massachusetts charitable trust company.

The Chapmans argued that their contribution to the Fidelity Charitable Gift Fund should be deductible because the fund ultimately distributed their contributions to various Minnesota charities.

But the department ruled that the conduit charity did not meet the law's definition of being "located in Minnesota or carrying on substantially all of its activity in Minnesota."

The tax court agreed, citing in part that no specific instructions were given to Fidelity requiring the money be given to a Minnesota charity and that an audit of where the money ultimately ended up would be difficult and costly.

However, the Supreme Court ruled the current law was unconstitutional under federal commerce laws because it discriminated between charities. The court returned the issue to the tax court to determine whether the Chapmans should be required to pay back taxes and whether any of the state's 24,000 alternative minimum taxpayers who deducted

### Gravel tax adjusted

The House also passed a bill 126-0 that clarifies a sales tax exemption on the delivery of aggregate materials and concrete block.

Rep. Ron Abrams (R-Minnetonka), the House sponsor, said the bill (SSHF3) clarifies the legislative intent of a provision in the 2002 omnibus tax law. The bill specifies that the delivery of aggregate materials and concrete block by a third party would be subject to the sales tax if it would be subject to the tax were delivery provided by the seller.

Abrams said the original provision had little to no cost associated with it, but since adjournment of the regular session, the department has interpreted the definition more broadly than intended.

The bill is effective retroactive to June 30, 2002.

Sen. Ann Rest (DFL-New Hope), the Senate sponsor, said the Revenue Department had indicated to her that there have been no collections related to the provision since June and therefore no refunds would be owed. The measure passed 63-0 in that body and awaits the governor's approval.

charitable contributions also owe back taxes.

According to nonpartisan House Research staff, if no changes are made to the law, the state would stand to collect an estimated \$20 million more in revenue next year.

Abrams said that those paying alternative minimum taxes in the state contribute more than \$350 million in charitable contributions.

The Revenue Department estimates that of the state's 24,000 alternative minimum taxpayers around 10,000 have a federal adjusted gross income of less than \$100,000 annually. Nearly 800 make more than \$500,000.

Officials representing some of Minnesota nonprofit organizations, including the Minnesota Private College Council and Minnesota Council on Nonprofits, supported the bill at a Sept. 19 House Taxes Committee hearing. They emphasized the importance of charitable contributions.

Others expressed concern that the state not conduct audits of those who claimed charitable deductions in the past. John Haugen, a Revenue Department attorney, said the department intends to wait for the state tax court to give further direction on the matter.


The Senate passed the measure, sponsored by Sen. Don Betzold (DFL-Fridley), 63-0. It awaits the governor's signature. 



PHOTO BY ANDREW VON BANK

Members of the House Taxes Committee debate a bill that allows certain charitable contributions to be deducted from personal income tax. The bill specifically redefines the threshold for of deduction for charitable contributions made as it relates to payment of the alternative minimum tax.

# SESSION Weekly

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To subscribe, contact:  
Minnesota House of Representatives  
Public Information Office  
175 State Office Building  
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## Bill Introductions

### Thursday, September 19

#### SSHF1—Penas (R)

##### Ways & Means

Flood relief provided in designated counties and to independent school district No. 682, Roseau; property tax abatement and agricultural disaster assistance provided; bonds issued; and money appropriated.

#### SSHF2—Abrams (R)

##### Taxes

Charitable contributions deductions under the alternative minimum tax clarified.

#### SSHF3—Abrams (R)

##### Taxes

Aggregate materials sales tax technical corrections provided.

#### SSHF4—Clark, K. (DFL)

##### Crime Prevention

Assault on a member of a community crime prevention group provided gross misdemeanor penalty.

#### HF5—Anderson, I. (DFL)

##### Taxes

Charitable contribution deductions under the alternative minimum tax clarified.

#### SSHF6—Clark, K. (DFL)

##### Crime Prevention

Community policing pilot project established, competitive law enforcement grants provided, and money appropriated.

#### SSHF7—Erhardt (R)

##### Taxes

Charitable contributions deduction under the alternative minimum tax clarified.

#### SSHF8—Clark, K. (DFL)

##### Crime Prevention

Law enforcement agencies required to notify community crime prevention groups of the outcome of criminal proceedings in cities of the first class.

#### SSHF9—Koskinen (DFL)

##### Health & Human Services Policy

Health plan premium increases restricted and report required.

#### SSHF10—Tingelstad (R)

##### Transportation Policy

Northstar commuter rail project funding provided, bonds issued, and money appropriated.

#### SSHF11—Anderson, I. (DFL)

##### Taxes

Charitable contribution deductions under the alternative minimum tax clarified.

#### SSHF12—Clark, K. (DFL)

##### Commerce, Jobs & Economic Development

National affordable housing trust fund creation urged by resolution to Congress.

#### SSHF13—Folliard (DFL)

##### Commerce, Jobs & Economic Development Policy

Home loan protection act adopted regulating home loans.

#### SSHF14—Peterson (DFL)

##### Agriculture Policy

Agriculture; United States House of Representatives urged by resolution to pass legislation for federal disaster assistance to agriculture.

## MINNESOTA INDEX

### State and federal flooding aid, 1997 to 2002

Flood relief in 2002 special session law for northwestern Minnesota, in millions .....	\$31.8
Preliminary damage estimates from 2002 flooding, including agricultural impacts, in millions (damages are still being processed from the June event) .....	\$150
Counties affected by June 2002 flooding .....	19
Percentage of homes flooded in Roseau in June 2002 .....	80
Funds in 2001 bonding law for flood damage in the city of Eagan, in millions .....	\$5
The city of Austin, in millions .....	\$2
Funds in 2001 bonding law for flood hazard mitigation grants, in millions .....	\$2
Funds specific to the Red River basin .....	\$234,000
Flood relief in 1997 special session law for the Red River basin, in millions .....	\$125
State and local matching funds for in the law, in millions .....	\$30
Flood mitigation and protection projects, in millions .....	\$13.9
Total aid for Red River basin communities affected by 1997 floods, in millions .....	\$831
Federal funds, in millions .....	\$574
Private funds, in millions .....	\$132
Estimated economic impacts of 1997 flooding, in billions .....	\$1.5
Counties affected by Spring 1997 flooding .....	58
Percentage of homes flooded in East Grand Forks in the spring of 1997 .....	99
Percentage of homes flooded in Breckenridge .....	90

Sources: Federal Emergency Management Agency; Minnesota Department of Public Safety Division of Emergency Management; State Climatology Office; *June 2002 Floods in the Red River of the North Basin in Northeastern North Dakota and Northwestern Minnesota*, U.S. Geological Survey; *Flood Damage Reductions: What Minnesota has done and still needs to do*, Minnesota Department of Natural Resources, December 2001; *Minnesota Session Laws 1997*; *Minnesota Session Laws 1998*; *Minnesota Session Laws 2001*; House Public Information Office; Minnesota Recovers Disaster Task Force; and Minnesota Department of Trade and Economic Development.