

1.1 A bill for an act

1.2 relating to taxation; providing a federal update; modifying green acres and
1.3 agricultural property tax provisions; establishing a land conservation property
1.4 tax program; requiring a report; amending Minnesota Statutes 2008, sections
1.5 273.111, subdivisions 3, 3a, 9; 273.13, subdivision 23; 289A.02, subdivision 7;
1.6 290.01, subdivisions 19, 19a, 31; 290.067, subdivision 2a; 290A.03, subdivisions
1.7 3, 15; 291.005, subdivision 1; proposing coding for new law in Minnesota
1.8 Statutes, chapter 273.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 **ARTICLE 1**

1.11 **FEDERAL CONFORMITY**

1.12 Section 1. Minnesota Statutes 2008, section 289A.02, subdivision 7, is amended to
1.13 read:

1.14 Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
1.15 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~February~~
1.16 ~~13~~ June 17, 2008.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment,
1.18 except the changes incorporated by federal changes are effective at the same time as the
1.19 changes were effective for federal purposes.

1.20 Sec. 2. Minnesota Statutes 2008, section 290.01, subdivision 19, is amended to read:

1.21 Subd. 19. **Net income.** The term "net income" means the federal taxable income,
1.22 as defined in section 63 of the Internal Revenue Code of 1986, as amended through the
1.23 date named in this subdivision, incorporating the federal effective dates of changes to the
1.24 Internal Revenue Code and any elections made by the taxpayer in accordance with the

2.1 Internal Revenue Code in determining federal taxable income for federal income tax
2.2 purposes, and with the modifications provided in subdivisions 19a to 19f.

2.3 In the case of a regulated investment company or a fund thereof, as defined in section
2.4 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
2.5 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
2.6 except that:

2.7 (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal
2.8 Revenue Code does not apply;

2.9 (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal
2.10 Revenue Code must be applied by allowing a deduction for capital gain dividends and
2.11 exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal
2.12 Revenue Code; and

2.13 (3) the deduction for dividends paid must also be applied in the amount of any
2.14 undistributed capital gains which the regulated investment company elects to have treated
2.15 as provided in section 852(b)(3)(D) of the Internal Revenue Code.

2.16 The net income of a real estate investment trust as defined and limited by section
2.17 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust
2.18 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

2.19 The net income of a designated settlement fund as defined in section 468B(d) of
2.20 the Internal Revenue Code means the gross income as defined in section 468B(b) of the
2.21 Internal Revenue Code.

2.22 The Internal Revenue Code of 1986, as amended through ~~February 13~~ June 17,
2.23 2008, other than changes included in Public Law 110-234, and as amended by division C,
2.24 sections 202, 203, and 204 of Public Law 110-343 and sections 3012 and 3023 of Public
2.25 Law 110-289, shall be in effect for taxable years beginning after December 31, 1996.

2.26 Except as otherwise provided, references to the Internal Revenue Code in
2.27 subdivisions 19 to 19f mean the code in effect for purposes of determining net income for
2.28 the applicable year.

2.29 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
2.30 December 31, 2007.

2.31 Sec. 3. Minnesota Statutes 2008, section 290.01, subdivision 19a, is amended to read:

2.32 Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and
2.33 trusts, there shall be added to federal taxable income:

2.34 (1)(i) interest income on obligations of any state other than Minnesota or a political
2.35 or governmental subdivision, municipality, or governmental agency or instrumentality

3.1 of any state other than Minnesota exempt from federal income taxes under the Internal
3.2 Revenue Code or any other federal statute; and

3.3 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue
3.4 Code, except the portion of the exempt-interest dividends derived from interest income
3.5 on obligations of the state of Minnesota or its political or governmental subdivisions,
3.6 municipalities, governmental agencies or instrumentalities, but only if the portion of the
3.7 exempt-interest dividends from such Minnesota sources paid to all shareholders represents
3.8 95 percent or more of the exempt-interest dividends that are paid by the regulated
3.9 investment company as defined in section 851(a) of the Internal Revenue Code, or the
3.10 fund of the regulated investment company as defined in section 851(g) of the Internal
3.11 Revenue Code, making the payment; ~~and~~

3.12 ~~(iii) For the purposes of items (i) and (ii) this clause,~~ interest on obligations of an Indian
3.13 tribal government described in section 7871(c) of the Internal Revenue Code shall be
3.14 treated as interest income on obligations of the state in which the tribe is located; and
3.15 interest and dividends from obligations guaranteed by a federal home loan bank are
3.16 considered exempt from federal taxation to the same extent that they are exempt under
3.17 section 3023 of Public Law 110-289;

3.18 (2) the amount of income or sales and use taxes paid or accrued within the taxable
3.19 year under this chapter and the amount of taxes based on net income paid or sales and use
3.20 taxes paid to any other state or to any province or territory of Canada, to the extent allowed
3.21 as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not
3.22 be more than the amount by which the itemized deductions as allowed under section 63(d)
3.23 of the Internal Revenue Code exceeds the amount of the standard deduction as defined
3.24 in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the
3.25 disallowance of itemized deductions under section 68 of the Internal Revenue Code of
3.26 1986, income or sales and use tax is the last itemized deduction disallowed;

3.27 (3) the capital gain amount of a lump-sum distribution to which the special tax under
3.28 section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

3.29 (4) the amount of income taxes paid or accrued within the taxable year under this
3.30 chapter and taxes based on net income paid to any other state or any province or territory
3.31 of Canada, to the extent allowed as a deduction in determining federal adjusted gross
3.32 income. For the purpose of this paragraph, income taxes do not include the taxes imposed
3.33 by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

3.34 (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10
3.35 other than expenses or interest used in computing net interest income for the subtraction
3.36 allowed under subdivision 19b, clause (1);

4.1 (6) the amount of a partner's pro rata share of net income which does not flow
4.2 through to the partner because the partnership elected to pay the tax on the income under
4.3 section 6242(a)(2) of the Internal Revenue Code;

4.4 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the
4.5 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that
4.6 in the taxable year generates a deduction for depreciation under section 168(k) and the
4.7 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for
4.8 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is
4.9 limited to excess of the depreciation claimed by the activity under section 168(k) over the
4.10 amount of the loss from the activity that is not allowed in the taxable year. In succeeding
4.11 taxable years when the losses not allowed in the taxable year are allowed, the depreciation
4.12 under section 168(k) is allowed;

4.13 (8) 80 percent of the amount by which the deduction allowed by section 179 of the
4.14 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
4.15 Revenue Code of 1986, as amended through December 31, 2003;

4.16 (9) to the extent deducted in computing federal taxable income, the amount of the
4.17 deduction allowable under section 199 of the Internal Revenue Code;

4.18 (10) the exclusion allowed under section 139A of the Internal Revenue Code for
4.19 federal subsidies for prescription drug plans;

4.20 (11) the amount of expenses disallowed under section 290.10, subdivision 2;

4.21 (12) ~~for taxable years beginning after December 31, 2006, and before January 1,~~
4.22 ~~2008,~~ the amount deducted for qualified tuition and related expenses under section 222 of
4.23 the Internal Revenue Code, to the extent deducted from gross income; ~~and~~

4.24 (13) ~~for taxable years beginning after December 31, 2006, and before January 1,~~
4.25 ~~2008,~~ the amount deducted for certain expenses of elementary and secondary school
4.26 teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted
4.27 from gross income; and

4.28 (14) the additional standard deduction for property taxes payable that is allowable
4.29 under division C, section 204 of Public Law 110-343 or section 3012 of Public Law
4.30 110-289.

4.31 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.32 December 31, 2007.

4.33 Sec. 4. Minnesota Statutes 2008, section 290.01, subdivision 31, is amended to read:

5.1 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
5.2 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~February~~
5.3 ~~13~~ June 17, 2008.

5.4 **EFFECTIVE DATE.** This section is effective the day following final enactment,
5.5 except the changes incorporated by federal changes are effective at the same time as the
5.6 changes were effective for federal purposes.

5.7 Sec. 5. Minnesota Statutes 2008, section 290.067, subdivision 2a, is amended to read:

5.8 Subd. 2a. **Income.** (a) For purposes of this section, "income" means the sum of
5.9 the following:

5.10 (1) federal adjusted gross income as defined in section 62 of the Internal Revenue
5.11 Code; and

5.12 (2) the sum of the following amounts to the extent not included in clause (1):

5.13 (i) all nontaxable income;

5.14 (ii) the amount of a passive activity loss that is not disallowed as a result of section
5.15 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity
5.16 loss carryover allowed under section 469(b) of the Internal Revenue Code;

5.17 (iii) an amount equal to the total of any discharge of qualified farm indebtedness
5.18 of a solvent individual excluded from gross income under section 108(g) of the Internal
5.19 Revenue Code;

5.20 (iv) cash public assistance and relief;

5.21 (v) any pension or annuity (including railroad retirement benefits, all payments
5.22 received under the federal Social Security Act, supplemental security income, and veterans
5.23 benefits), which was not exclusively funded by the claimant or spouse, or which was
5.24 funded exclusively by the claimant or spouse and which funding payments were excluded
5.25 from federal adjusted gross income in the years when the payments were made;

5.26 (vi) interest received from the federal or a state government or any instrumentality
5.27 or political subdivision thereof;

5.28 (vii) workers' compensation;

5.29 (viii) nontaxable strike benefits;

5.30 (ix) the gross amounts of payments received in the nature of disability income or
5.31 sick pay as a result of accident, sickness, or other disability, whether funded through
5.32 insurance or otherwise;

5.33 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of
5.34 1986, as amended through December 31, 1995;

6.1 (xi) contributions made by the claimant to an individual retirement account,
6.2 including a qualified voluntary employee contribution; simplified employee pension plan;
6.3 self-employed retirement plan; cash or deferred arrangement plan under section 401(k)
6.4 of the Internal Revenue Code; or deferred compensation plan under section 457 of the
6.5 Internal Revenue Code;

6.6 (xii) nontaxable scholarship or fellowship grants;

6.7 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue
6.8 Code; ~~and~~

6.9 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal
6.10 Revenue Code; and

6.11 (xv) the amount of tuition expenses and educator expenses required to be added to
6.12 income under section 290.01, subdivision 19a, clauses (12) and (13).

6.13 In the case of an individual who files an income tax return on a fiscal year basis, the
6.14 term "federal adjusted gross income" means federal adjusted gross income reflected in the
6.15 fiscal year ending in the next calendar year. Federal adjusted gross income may not be
6.16 reduced by the amount of a net operating loss carryback or carryforward or a capital loss
6.17 carryback or carryforward allowed for the year.

6.18 (b) "Income" does not include:

6.19 (1) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and
6.20 102;

6.21 (2) amounts of any pension or annuity that were exclusively funded by the claimant
6.22 or spouse if the funding payments were not excluded from federal adjusted gross income
6.23 in the years when the payments were made;

6.24 (3) surplus food or other relief in kind supplied by a governmental agency;

6.25 (4) relief granted under chapter 290A;

6.26 (5) child support payments received under a temporary or final decree of dissolution
6.27 or legal separation; and

6.28 (6) restitution payments received by eligible individuals and excludable interest as
6.29 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of
6.30 2001, Public Law 107-16.

6.31 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.32 December 31, 2007.

6.33 Sec. 6. Minnesota Statutes 2008, section 290A.03, subdivision 3, is amended to read:

6.34 Subd. 3. **Income.** (1) "Income" means the sum of the following:

6.35 (a) federal adjusted gross income as defined in the Internal Revenue Code; and

- 7.1 (b) the sum of the following amounts to the extent not included in clause (a):
- 7.2 (i) all nontaxable income;
- 7.3 (ii) the amount of a passive activity loss that is not disallowed as a result of section
- 7.4 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity
- 7.5 loss carryover allowed under section 469(b) of the Internal Revenue Code;
- 7.6 (iii) an amount equal to the total of any discharge of qualified farm indebtedness
- 7.7 of a solvent individual excluded from gross income under section 108(g) of the Internal
- 7.8 Revenue Code;
- 7.9 (iv) cash public assistance and relief;
- 7.10 (v) any pension or annuity (including railroad retirement benefits, all payments
- 7.11 received under the federal Social Security Act, Supplemental Security Income, and
- 7.12 veterans benefits), which was not exclusively funded by the claimant or spouse, or which
- 7.13 was funded exclusively by the claimant or spouse and which funding payments were
- 7.14 excluded from federal adjusted gross income in the years when the payments were made;
- 7.15 (vi) interest received from the federal or a state government or any instrumentality
- 7.16 or political subdivision thereof;
- 7.17 (vii) workers' compensation;
- 7.18 (viii) nontaxable strike benefits;
- 7.19 (ix) the gross amounts of payments received in the nature of disability income or
- 7.20 sick pay as a result of accident, sickness, or other disability, whether funded through
- 7.21 insurance or otherwise;
- 7.22 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of
- 7.23 1986, as amended through December 31, 1995;
- 7.24 (xi) contributions made by the claimant to an individual retirement account,
- 7.25 including a qualified voluntary employee contribution; simplified employee pension plan;
- 7.26 self-employed retirement plan; cash or deferred arrangement plan under section 401(k)
- 7.27 of the Internal Revenue Code; or deferred compensation plan under section 457 of the
- 7.28 Internal Revenue Code;
- 7.29 (xii) nontaxable scholarship or fellowship grants;
- 7.30 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue
- 7.31 Code; ~~and~~
- 7.32 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal
- 7.33 Revenue Code; and
- 7.34 (xv) the amount of tuition expenses and educator expenses required to be added to
- 7.35 income under section 290.01, subdivision 19a, clauses (12) and (13).

8.1 In the case of an individual who files an income tax return on a fiscal year basis, the
8.2 term "federal adjusted gross income" shall mean federal adjusted gross income reflected
8.3 in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be
8.4 reduced by the amount of a net operating loss carryback or carryforward or a capital loss
8.5 carryback or carryforward allowed for the year.

8.6 (2) "Income" does not include:

8.7 (a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and
8.8 102;

8.9 (b) amounts of any pension or annuity which was exclusively funded by the claimant
8.10 or spouse and which funding payments were not excluded from federal adjusted gross
8.11 income in the years when the payments were made;

8.12 (c) surplus food or other relief in kind supplied by a governmental agency;

8.13 (d) relief granted under this chapter;

8.14 (e) child support payments received under a temporary or final decree of dissolution
8.15 or legal separation; or

8.16 (f) restitution payments received by eligible individuals and excludable interest as
8.17 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of
8.18 2001, Public Law 107-16.

8.19 (3) The sum of the following amounts may be subtracted from income:

8.20 (a) for the claimant's first dependent, the exemption amount multiplied by 1.4;

8.21 (b) for the claimant's second dependent, the exemption amount multiplied by 1.3;

8.22 (c) for the claimant's third dependent, the exemption amount multiplied by 1.2;

8.23 (d) for the claimant's fourth dependent, the exemption amount multiplied by 1.1;

8.24 (e) for the claimant's fifth dependent, the exemption amount; and

8.25 (f) if the claimant or claimant's spouse was disabled or attained the age of 65
8.26 on or before December 31 of the year for which the taxes were levied or rent paid, the
8.27 exemption amount.

8.28 For purposes of this subdivision, the "exemption amount" means the exemption
8.29 amount under section 151(d) of the Internal Revenue Code for the taxable year for which
8.30 the income is reported.

8.31 **EFFECTIVE DATE.** This section is effective for property tax refunds based on
8.32 property taxes payable after December 31, 2008, and rent paid after December 31, 2007.

8.33 Sec. 7. Minnesota Statutes 2008, section 290A.03, subdivision 15, is amended to read:

8.34 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal
8.35 Revenue Code of 1986, as amended through ~~February 13~~ June 17, 2008.

9.1 **EFFECTIVE DATE.** This section is effective for property tax refunds based on
9.2 property taxes payable after December 31, 2008, and rent paid after December 31, 2007.

9.3 Sec. 8. Minnesota Statutes 2008, section 291.005, subdivision 1, is amended to read:

9.4 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following
9.5 terms used in this chapter shall have the following meanings:

9.6 (1) "Federal gross estate" means the gross estate of a decedent as valued and
9.7 otherwise determined for federal estate tax purposes by federal taxing authorities pursuant
9.8 to the provisions of the Internal Revenue Code.

9.9 (2) "Minnesota gross estate" means the federal gross estate of a decedent after (a)
9.10 excluding therefrom any property included therein which has its situs outside Minnesota,
9.11 and (b) including therein any property omitted from the federal gross estate which is
9.12 includable therein, has its situs in Minnesota, and was not disclosed to federal taxing
9.13 authorities.

9.14 (3) "Personal representative" means the executor, administrator or other person
9.15 appointed by the court to administer and dispose of the property of the decedent. If there
9.16 is no executor, administrator or other person appointed, qualified, and acting within this
9.17 state, then any person in actual or constructive possession of any property having a situs in
9.18 this state which is included in the federal gross estate of the decedent shall be deemed
9.19 to be a personal representative to the extent of the property and the Minnesota estate tax
9.20 due with respect to the property.

9.21 (4) "Resident decedent" means an individual whose domicile at the time of death
9.22 was in Minnesota.

9.23 (5) "Nonresident decedent" means an individual whose domicile at the time of
9.24 death was not in Minnesota.

9.25 (6) "Situs of property" means, with respect to real property, the state or country in
9.26 which it is located; with respect to tangible personal property, the state or country in which
9.27 it was normally kept or located at the time of the decedent's death; and with respect to
9.28 intangible personal property, the state or country in which the decedent was domiciled
9.29 at death.

9.30 (7) "Commissioner" means the commissioner of revenue or any person to whom the
9.31 commissioner has delegated functions under this chapter.

9.32 (8) "Internal Revenue Code" means the United States Internal Revenue Code of
9.33 1986, as amended through ~~February 13~~ June 17, 2008.

10.1 (9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as
10.2 defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of
10.3 deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

10.4 EFFECTIVE DATE. This section is effective the day following final enactment,
10.5 except the changes incorporated by federal changes are effective at the same time as the
10.6 changes were effective for federal purposes.

10.7 Sec. 9. WITHHOLDING ON DIFFERENTIAL PAY.

10.8 The commissioner must not assess tax, penalty, or interest against an employer for
10.9 failing to withhold tax from differential wages, as defined in Internal Revenue Code,
10.10 section 3401(h)(2), paid before January 1, 2010, to an employee who has been called to
10.11 active duty in the military services.

10.12 EFFECTIVE DATE. This section is effective the day following final enactment.

10.13 Sec. 10. MINNESOTA HOUSING BONDS EXCLUDED FROM INDIVIDUAL
10.14 ALTERNATIVE MINIMUM TAXABLE INCOME.

10.15 Except to the extent includable in alternative minimum taxable income pursuant to
10.16 Minnesota Statutes, section 290.091, subdivision 2, paragraph (a), clause (5), alternative
10.17 minimum taxable income under Minnesota Statutes, section 290.091, subdivision 2,
10.18 paragraph (a), does not include interest or dividends paid from certain housing bonds
10.19 described in section 3022(a) of Public Law 110-289, to the extent the obligations
10.20 are issued by Minnesota or a political or governmental subdivision, municipality, or
10.21 governmental agency or instrumentality of Minnesota.

10.22 EFFECTIVE DATE. This section is effective for taxable years beginning after
10.23 December 31, 2007, and applies to interest and dividends paid on bonds issued after
10.24 July 30, 2008.

10.25 **ARTICLE 2**

10.26 **GREEN ACRES**

10.27 Section 1. Minnesota Statutes 2008, section 273.111, subdivision 3, is amended to read:

10.28 Subd. 3. **Requirements.** (a) Real estate consisting of ten acres or more or a nursery
10.29 or greenhouse, and qualifying for classification as class 2a under section 273.13, shall be
10.30 entitled to valuation and tax deferment under this section if it is primarily devoted to
10.31 agricultural use, and either:

11.1 (1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the
11.2 owner or is real estate which is farmed with the real estate which contains the homestead
11.3 property; or

11.4 (2) has been in possession of the applicant, the applicant's spouse, parent, or sibling,
11.5 or any combination thereof, for a period of at least seven years prior to application for
11.6 benefits under the provisions of this section, or is real estate which is farmed with the
11.7 real estate which qualifies under this clause and is within four townships or cities or
11.8 combination thereof from the qualifying real estate; or

11.9 (3) is the homestead of an individual who is part of an entity described in paragraph
11.10 (b), clause (1), (2), or (3); or

11.11 (4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor,
11.12 partnership, or corporation which also owns the nursery or greenhouse operations on the
11.13 parcel or parcels, provided that only the acres used to produce nursery stock qualify
11.14 for treatment under this section.

11.15 The ten acre minimum size requirement will be considered to be met for real estate that
11.16 had consisted of ten acres or more that had qualified for treatment under Minnesota
11.17 Statutes 2006, section 273.111.

11.18 (b) Valuation of real estate under this section is limited to parcels owned by
11.19 individuals except for:

11.20 (1) a family farm entity or authorized farm entity regulated under section 500.24;

11.21 (2) a poultry entity other than a limited liability entity in which the majority of the
11.22 members, partners, or shareholders are related and at least one of the members, partners,
11.23 or shareholders either resides on the land or actively operates the land; and

11.24 (3) corporations that derive 80 percent or more of their gross receipts from the
11.25 wholesale or retail sale of horticultural or nursery stock.

11.26 The terms in this paragraph have the meanings given in section 500.24, where
11.27 applicable.

11.28 (c) Land that previously qualified for tax deferment under this section and no longer
11.29 qualifies because it is not primarily used for agricultural purposes but would otherwise
11.30 qualify under Minnesota Statutes 2006, section 273.111, subdivision 3, for a period of at
11.31 least three years will not be required to make payment of the previously deferred taxes,
11.32 notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration
11.33 of the three-year period requires payment of deferred taxes as follows: sale in the year
11.34 the land no longer qualifies requires payment of the current year's deferred taxes plus
11.35 payment of deferred taxes for the two prior years; sale during the second year the land
11.36 no longer qualifies requires payment of the current year's deferred taxes plus payment of

12.1 the deferred taxes for the prior year; and sale during the third year the land no longer
12.2 qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be
12.3 paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or
12.4 no longer qualifies under this paragraph, or at the end of the three-year period, whichever
12.5 comes first, all deferred special assessments plus interest are payable in equal installments
12.6 spread over the time remaining until the last maturity date of the bonds issued to finance
12.7 the improvement for which the assessments were levied. If the bonds have matured, the
12.8 deferred special assessments plus interest are payable within 90 days. The provisions of
12.9 section 429.061, subdivision 2, apply to the collection of these installments. Penalties are
12.10 not imposed on any such special assessments if timely paid.

12.11 ~~(d) Land that is enrolled in the reinvest in Minnesota program under sections~~
12.12 ~~103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public~~
12.13 ~~Law 99-198, or a similar state or federal conservation program does not qualify for~~
12.14 ~~valuation and assessment deferral under this section. This paragraph applies to land that~~
12.15 ~~has not qualified under this section for taxes payable in 2009 or previous years.~~

12.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.17 Sec. 2. Minnesota Statutes 2008, section 273.111, subdivision 3a, is amended to read:

12.18 Subd. 3a. **Property no longer eligible for deferment.** (a) Real estate receiving
12.19 the tax deferment under this section for assessment year 2008, but that does not qualify
12.20 for the 2009 assessment year due to changes in qualification requirements under Laws
12.21 2008, chapter 366, shall continue to qualify until ~~any part of:~~ (1) the land is sold,
12.22 transferred, or subdivided, or (2) the 2013 assessment, whichever is earlier, provided that
12.23 the property continues to meet the requirements of Minnesota Statutes 2006, section
12.24 273.111, subdivision 3.

12.25 (b) Except as provided in paragraph (c), and subdivision 9, paragraph (b), when
12.26 property assessed under this subdivision is withdrawn from the program or becomes
12.27 ineligible, the property shall be subject to additional taxes, ~~in the amount equal to the~~
12.28 ~~average difference between the taxes determined in accordance with subdivision 4, and the~~
12.29 ~~amount determined under subdivision 5, for the current year and the two preceding years;~~
12.30 ~~multiplied by (1) three, in the case of class 2a property under section 273.13, subdivision~~
12.31 ~~23, or any property withdrawn before January 2, 2009, or (2) seven, in the case of property~~
12.32 ~~withdrawn after January 2, 2009, that is not class 2a property. The number of years used as~~
12.33 ~~the multiplier must not exceed the number of years during which the property was subject~~
12.34 ~~to this section. The amount determined under subdivision 5 shall not be greater than it~~
12.35 ~~would have been had the actual bona fide sale price of the real property at an arm's-length~~

13.1 ~~transaction been used in lieu of the market value determined under subdivision 5. The~~
13.2 ~~additional taxes shall be extended against the property on the tax list for the current year,~~
13.3 ~~provided that no interest or penalties shall be levied on the additional taxes if timely~~
13.4 ~~paid as provided in subdivision 9.~~

13.5 (c) If land described in paragraph (a) is sold or otherwise transferred to a son or
13.6 daughter of the owner, it will continue to qualify for treatment under this section as long
13.7 as it continues to meet the requirements of Minnesota Statutes 2006, section 273.111,
13.8 subdivision 3.

13.9 (d) When property assessed under this subdivision is removed from the program
13.10 and is enrolled in the land conservation property tax law program under section 273.114,
13.11 the property is not subject to the additional taxes required under this subdivision or
13.12 subdivision 9.

13.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.14 Sec. 3. Minnesota Statutes 2008, section 273.111, subdivision 9, is amended to read:

13.15 Subd. 9. **Additional taxes.** (a) Except as provided in paragraph (b), when real
13.16 property which is being, or has been valued and assessed under this section no longer
13.17 qualifies under subdivision 3, the portion no longer qualifying shall be subject to additional
13.18 taxes, in the amount equal to the difference between the taxes determined in accordance
13.19 with subdivision 4, and the amount determined under subdivision 5. Provided, however,
13.20 that the amount determined under subdivision 5 shall not be greater than it would have
13.21 been had the actual bona fide sale price of the real property at an arm's-length transaction
13.22 been used in lieu of the market value determined under subdivision 5. Such additional
13.23 taxes shall be extended against the property on the tax list for the current year, provided,
13.24 however, that no interest or penalties shall be levied on such additional taxes if timely
13.25 paid, and provided further, that such additional taxes shall only be levied with respect to
13.26 the last three years that the said property has been valued and assessed under this section.

13.27 (b) Real property that has been valued and assessed under this section prior to
13.28 May 29, 2008, and that ceases to qualify under this section after May 28, 2008, and is
13.29 withdrawn from the program before January 1, 2010, is not subject to additional taxes
13.30 under this subdivision or subdivision 3, paragraph (c).

13.31 Sec. 4. [273.114] LAND CONSERVATION PROPERTY TAX.

13.32 Subdivision 1. **Definitions.** (a) In this section, the terms defined in this subdivision
13.33 have the meanings given them.

14.1 (b) "Conservation management plan" means a written document providing a
14.2 framework for site-specific healthy, productive, and sustainable conservation resources. A
14.3 conservation management plan must include at least the following:

- 14.4 (1) conservation management goals for the land;
14.5 (2) a reliable field inventory of the individual conservation cover types;
14.6 (3) a description of the soil type and quality;
14.7 (4) an aerial photo or map of the vegetation and other natural features of the land
14.8 clearly indicating the boundaries of the conservation land;
14.9 (5) the proposed future conditions of the land;
14.10 (6) prescriptions to meet proposed future conditions of the land;
14.11 (7) a recommended timetable for implementing the prescribed activities; and
14.12 (8) a legal description of the land encompassing the parcels included in the plan.

14.13 (c) "Approved plan writers" are natural resource professionals who are
14.14 self-employed, employed by private companies or individuals, nonprofit organizations,
14.15 local units of government, or public agencies, and who are approved by the Board of
14.16 Water and Soil Resources. Persons employed to write conservation plans for soil and
14.17 water conservation districts or federal agencies shall be deemed to meet the standards
14.18 required under this subdivision. The Board of Water and Soil Resources shall issue a
14.19 unique identification number to each approved planner.

14.20 Subd. 2. **Requirements.** Class 2b property that had been subject to Minnesota
14.21 Statutes 2006, section 273.111, or that is part of an agricultural homestead under section
14.22 273.13, subdivision 23, paragraph (a), is entitled to valuation and tax deferral under
14.23 this section if:

- 14.24 (1) the land consists of at least ten acres;
14.25 (2) a conservation management plan for the land must be prepared by an approved
14.26 plan writer and implemented during the period in which the land is subject to valuation
14.27 and deferral under this section;
14.28 (3) the land must be enrolled for a minimum of eight years; and
14.29 (4) there are no delinquent property taxes on the land.

14.30 Real estate may not be enrolled for valuation and deferral under this section and
14.31 section 273.111, 273.112, or 273.117, or chapter 290C concurrently.

14.32 Subd. 3. **Determination of value.** Notwithstanding sections 272.03, subdivision
14.33 8, and 273.11, the value of any real estate that qualifies under subdivision 2 must, upon
14.34 timely application by the owner in the manner provided in subdivision 5, not exceed the
14.35 value prescribed by the commissioner of revenue for class 2a tillable property in that
14.36 county. The house and garage, if any, and the immediately surrounding one acre of land

15.1 and a minor, ancillary nonresidential structure, if any, shall be valued according to their
15.2 appropriate value. In determining the value for ad valorem tax purposes, the assessor shall
15.3 not consider the presence of commercial, industrial, residential, or seasonal recreational
15.4 land use influences that may affect the value of real estate defined in subdivision 1.

15.5 Subd. 4. **Separate determination of market value and tax.** The assessor shall
15.6 make a separate determination of the market value of the real estate based on its highest
15.7 and best use. The tax based upon that value and the appropriate local tax rate applicable to
15.8 the property in the taxing district shall be recorded on the property assessment records.

15.9 Subd. 5. **Application and covenant agreement.** (a) Application for deferment
15.10 of taxes and assessment under this section shall be filed by May 1 of the year prior to
15.11 the year in which the taxes are payable. Any application filed under this subdivision
15.12 and granted shall continue in effect for subsequent years until the termination of the
15.13 covenant agreement under paragraph (b). The application must be filed with the assessor
15.14 of the taxing district in which the real property is located on the form prescribed by the
15.15 commissioner of revenue. The assessor may require proof by affidavit or otherwise that
15.16 the property qualifies under subdivision 2.

15.17 (b) The owner of the property must sign a covenant agreement that is filed with the
15.18 county recorder and recorded in the county where the property is located. The covenant
15.19 agreement must include all of the following:

15.20 (1) legal description of the area to which the covenant applies;

15.21 (2) name and address of the owner;

15.22 (3) a statement that the land described in the covenant must be kept as conservation
15.23 land, which meets the requirements of subdivision 2, for the duration of the covenant;

15.24 (4) a statement that the landowner may terminate the covenant agreement by
15.25 notifying the county assessor in writing four years in advance of the date of proposed
15.26 termination, provided that the notice of intent to terminate may not be given at any time
15.27 before the land has been subject to the covenant for a period of four years;

15.28 (5) a statement that the covenant is binding on the owner or the owner's successor or
15.29 assigns and runs with the land; and

15.30 (6) a witnessed signature of the owner, agreeing by covenant, to maintain the land as
15.31 described in subdivision 2.

15.32 (c) After a covenant under this section has been terminated, the land that had been
15.33 subject to the covenant is ineligible for subsequent valuation under this section for a
15.34 period of three years after the termination.

15.35 Subd. 6. **Additional taxes.** Upon termination of a covenant agreement in
15.36 subdivision 5, paragraph (b), the land to which the covenant applied shall be subject to

16.1 additional taxes in the amount equal to the difference between the taxes determined in
16.2 accordance with subdivision 3 and the amount determined under subdivision 4, provided
16.3 that the amount determined under subdivision 4 shall not be greater than it would have
16.4 been had the actual bona fide sale price of the real property at an arm's-length transaction
16.5 been used in lieu of the market value determined under subdivision 4. The additional taxes
16.6 shall be extended against the property on the tax list for the current year, provided that
16.7 no interest or penalties shall be levied on the additional taxes if timely paid and that the
16.8 additional taxes shall only be levied with respect to the last three years that the property
16.9 has been valued and assessed under this section.

16.10 Subd. 7. **Lien.** The additional tax imposed by this section shall be a lien upon the
16.11 property assessed to the same extent and for the same duration as other taxes imposed on
16.12 the property in this state. The tax shall be annually extended by the county auditor and if
16.13 and when payable shall be collected and distributed in the manner provided by law for the
16.14 collection and distribution of other property taxes.

16.15 Subd. 8. **Special local assessments.** The payment of special local assessments
16.16 levied after June 1, 2009, for improvements made to any real property described in
16.17 subdivision 1 together with the interest thereon shall, on timely application as provided
16.18 in subdivision 6, be deferred as long as the property meets the conditions contained in
16.19 subdivision 1. If special assessments against the property have been deferred pursuant
16.20 to this subdivision, the governmental unit shall file with the county recorder in the
16.21 county in which the property is located a certificate containing the legal description of
16.22 the affected property and of the amount deferred. When the property no longer qualifies
16.23 under subdivision 1, all deferred special assessments plus interest shall be payable in
16.24 equal installments spread over the time remaining until the last maturity date of the bonds
16.25 issued to finance the improvement for which the assessments were levied. If the bonds
16.26 have matured, the deferred special assessments plus interest shall be payable within 90
16.27 days. The provisions of section 429.061, subdivision 2, apply to the collection of these
16.28 installments. Penalty shall not be levied on these special assessments if timely paid. This
16.29 subdivision does not apply to special assessments levied at any time by a county or district
16.30 court under chapter 116A or by a watershed district under chapter 103D.

16.31 **EFFECTIVE DATE.** This section is effective for deferred taxes payable in 2010
16.32 and thereafter, except that for the 2009 assessment year, the application deadline in
16.33 subdivision 5 is extended to September 1.

16.34 Sec. 5. Minnesota Statutes 2008, section 273.13, subdivision 23, is amended to read:

17.1 Subd. 23. **Class 2.** (a) An agricultural homestead consists of class 2a agricultural
17.2 land that is homesteaded, along with any class 2b rural vacant land that is contiguous to
17.3 the class 2a land under the same ownership. The market value of the house and garage
17.4 and immediately surrounding one acre of land has the same class rates as class 1a or 1b
17.5 property under subdivision 22. The value of the remaining land including improvements
17.6 up to the first tier valuation limit of agricultural homestead property has a net class rate
17.7 of 0.5 percent of market value. The remaining property over the first tier has a class rate
17.8 of one percent of market value. For purposes of this subdivision, the "first tier valuation
17.9 limit of agricultural homestead property" and "first tier" means the limit certified under
17.10 section 273.11, subdivision 23.

17.11 (b) Class 2a agricultural land consists of parcels of property, or portions thereof,
17.12 that are agricultural land and buildings. Class 2a property has a net class rate of one
17.13 percent of market value, unless it is part of an agricultural homestead under paragraph
17.14 (a). Class 2a property ~~may contain~~ must also include any property that would otherwise
17.15 be classified as 2b, including but not limited to sloughs, wooded wind shelters, acreage
17.16 abutting ditches, ravines, rock piles, and other similar land that is impractical for the
17.17 assessor to value separately from the rest of the property or that is unlikely to be able to be
17.18 sold separately from the rest of the property.

17.19 An assessor may classify the part of a parcel described in this subdivision that is used
17.20 for agricultural purposes as class 2a and the remainder in the class appropriate to its use.

17.21 (c) Class 2b rural vacant land consists of parcels of property, or portions thereof,
17.22 that are unplatted real estate, rural in character and not used for agricultural purposes,
17.23 including land used for growing trees for timber, lumber, and wood and wood products,
17.24 that is not improved with a structure. The presence of a minor, ancillary nonresidential
17.25 structure as defined by the commissioner of revenue does not disqualify the property from
17.26 classification under this paragraph. Any parcel of 20 acres or more improved with a
17.27 structure that is not a minor, ancillary nonresidential structure must be split-classified, and
17.28 ten acres must be assigned to the split parcel containing the structure. Class 2b property
17.29 has a net class rate of one percent of market value unless it is part of an agricultural
17.30 homestead under paragraph (a), or qualifies as class 2c under paragraph (d).

17.31 (d) Class 2c managed forest land consists of no less than 20 and no more than 1,920
17.32 acres statewide per taxpayer that is being managed under a forest management plan that
17.33 meets the requirements of chapter 290C, but is not enrolled in the sustainable forest
17.34 resource management incentive program. It has a class rate of .65 percent, provided that
17.35 the owner of the property must apply to the assessor to receive the reduced class rate and
17.36 provide the information required by the assessor to verify that the property qualifies for

18.1 the reduced rate. The commissioner of natural resources must concur that the land is
18.2 qualified. The commissioner of natural resources shall annually provide county assessors
18.3 verification information on a timely basis.

18.4 (e) Agricultural land as used in this section means contiguous acreage of ten
18.5 acres or more, used during the preceding year for agricultural purposes. "Agricultural
18.6 purposes" as used in this section means the raising, cultivation, drying, or storage of
18.7 agricultural products for sale, or the storage of machinery or equipment used in support
18.8 of agricultural production by the same farm entity. For a property to be classified as
18.9 agricultural based only on the drying or storage of agricultural products, the products
18.10 being dried or stored must have been produced by the same farm entity as the entity
18.11 operating the drying or storage facility. "Agricultural purposes" also includes enrollment
18.12 in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal
18.13 Conservation Reserve Program as contained in Public Law 99-198 or a similar state
18.14 or federal conservation program if the property was classified as agricultural (i) under
18.15 this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment.
18.16 Agricultural classification shall not be based upon the market value of any residential
18.17 structures on the parcel or contiguous parcels under the same ownership.

18.18 (f) Real estate of less than ten acres, which is exclusively or intensively used for
18.19 raising or cultivating agricultural products, shall be considered as agricultural land. To
18.20 qualify under this paragraph, property that includes a residential structure must be used
18.21 intensively for one of the following purposes:

18.22 (i) for drying or storage of grain or storage of machinery or equipment used to
18.23 support agricultural activities on other parcels of property operated by the same farming
18.24 entity;

18.25 (ii) as a nursery, provided that only those acres used to produce nursery stock are
18.26 considered agricultural land;

18.27 (iii) for livestock or poultry confinement, provided that land that is used only for
18.28 pasturing and grazing does not qualify; or

18.29 (iv) for market farming; for purposes of this paragraph, "market farming" means the
18.30 cultivation of one or more fruits or vegetables or production of animal or other agricultural
18.31 products for sale to local markets by the farmer or an organization with which the farmer
18.32 is affiliated.

18.33 (g) Land shall be classified as agricultural even if all or a portion of the agricultural
18.34 use of that property is the leasing to, or use by another person for agricultural purposes.

18.35 Classification under this subdivision is not determinative for qualifying under
18.36 section 273.111.

19.1 (h) The property classification under this section supersedes, for property tax
19.2 purposes only, any locally administered agricultural policies or land use restrictions that
19.3 define minimum or maximum farm acreage.

19.4 (i) The term "agricultural products" as used in this subdivision includes production
19.5 for sale of:

19.6 (1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing
19.7 animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains,
19.8 bees, and apiary products by the owner;

19.9 (2) fish bred for sale and consumption if the fish breeding occurs on land zoned
19.10 for agricultural use;

19.11 (3) the commercial boarding of horses if the boarding is done in conjunction with
19.12 raising or cultivating agricultural products as defined in clause (1);

19.13 (4) property which is owned and operated by nonprofit organizations used for
19.14 equestrian activities, excluding racing;

19.15 (5) game birds and waterfowl bred and raised for use on a shooting preserve licensed
19.16 under section 97A.115;

19.17 (6) insects primarily bred to be used as food for animals;

19.18 (7) trees, grown for sale as a crop, including short rotation woody crops, and not
19.19 sold for timber, lumber, wood, or wood products; and

19.20 (8) maple syrup taken from trees grown by a person licensed by the Minnesota
19.21 Department of Agriculture under chapter 28A as a food processor.

19.22 (j) If a parcel used for agricultural purposes is also used for commercial or industrial
19.23 purposes, including but not limited to:

19.24 (1) wholesale and retail sales;

19.25 (2) processing of raw agricultural products or other goods;

19.26 (3) warehousing or storage of processed goods; and

19.27 (4) office facilities for the support of the activities enumerated in clauses (1), (2),
19.28 and (3),

19.29 the assessor shall classify the part of the parcel used for agricultural purposes as class
19.30 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its
19.31 use. The grading, sorting, and packaging of raw agricultural products for first sale is
19.32 considered an agricultural purpose. A greenhouse or other building where horticultural
19.33 or nursery products are grown that is also used for the conduct of retail sales must be
19.34 classified as agricultural if it is primarily used for the growing of horticultural or nursery
19.35 products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of

20.1 those products. Use of a greenhouse or building only for the display of already grown
20.2 horticultural or nursery products does not qualify as an agricultural purpose.

20.3 The assessor shall determine and list separately on the records the market value of
20.4 the homestead dwelling and the one acre of land on which that dwelling is located. If any
20.5 farm buildings or structures are located on this homesteaded acre of land, their market
20.6 value shall not be included in this separate determination.

20.7 (k) Class 2d airport landing area consists of a landing area or public access area of
20.8 a privately owned public use airport. It has a class rate of one percent of market value.
20.9 To qualify for classification under this paragraph, a privately owned public use airport
20.10 must be licensed as a public airport under section 360.018. For purposes of this paragraph,
20.11 "landing area" means that part of a privately owned public use airport properly cleared,
20.12 regularly maintained, and made available to the public for use by aircraft and includes
20.13 runways, taxiways, aprons, and sites upon which are situated landing or navigational aids.
20.14 A landing area also includes land underlying both the primary surface and the approach
20.15 surfaces that comply with all of the following:

20.16 (i) the land is properly cleared and regularly maintained for the primary purposes of
20.17 the landing, taking off, and taxiing of aircraft; but that portion of the land that contains
20.18 facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

20.19 (ii) the land is part of the airport property; and

20.20 (iii) the land is not used for commercial or residential purposes.

20.21 The land contained in a landing area under this paragraph must be described and certified
20.22 by the commissioner of transportation. The certification is effective until it is modified,
20.23 or until the airport or landing area no longer meets the requirements of this paragraph.
20.24 For purposes of this paragraph, "public access area" means property used as an aircraft
20.25 parking ramp, apron, or storage hangar, or an arrival and departure building in connection
20.26 with the airport.

20.27 (l) Class 2e consists of land with a commercial aggregate deposit that is not actively
20.28 being mined and is not otherwise classified as class 2a or 2b. It has a class rate of one
20.29 percent of market value. To qualify for classification under this paragraph, the property
20.30 must be at least ten contiguous acres in size and the owner of the property must record with
20.31 the county recorder of the county in which the property is located an affidavit containing:

20.32 (1) a legal description of the property;

20.33 (2) a disclosure that the property contains a commercial aggregate deposit that is not
20.34 actively being mined but is present on the entire parcel enrolled;

20.35 (3) documentation that the conditional use under the county or local zoning
20.36 ordinance of this property is for mining; and

21.1 (4) documentation that a permit has been issued by the local unit of government
21.2 or the mining activity is allowed under local ordinance. The disclosure must include a
21.3 statement from a registered professional geologist, engineer, or soil scientist delineating
21.4 the deposit and certifying that it is a commercial aggregate deposit.

21.5 For purposes of this section and section 273.1115, "commercial aggregate deposit"
21.6 means a deposit that will yield crushed stone or sand and gravel that is suitable for use
21.7 as a construction aggregate; and "actively mined" means the removal of top soil and
21.8 overburden in preparation for excavation or excavation of a commercial deposit.

21.9 (m) When any portion of the property under this subdivision or subdivision 22
21.10 begins to be actively mined, the owner must file a supplemental affidavit within 60 days
21.11 from the day any aggregate is removed stating the number of acres of the property that is
21.12 actively being mined. The acres actively being mined must be (1) valued and classified
21.13 under subdivision 24 in the next subsequent assessment year, and (2) removed from the
21.14 aggregate resource preservation property tax program under section 273.1115, if the
21.15 land was enrolled in that program. Copies of the original affidavit and all supplemental
21.16 affidavits must be filed with the county assessor, the local zoning administrator, and the
21.17 Department of Natural Resources, Division of Land and Minerals. A supplemental
21.18 affidavit must be filed each time a subsequent portion of the property is actively mined,
21.19 provided that the minimum acreage change is five acres, even if the actual mining activity
21.20 constitutes less than five acres.

21.21 **EFFECTIVE DATE.** This section is effective for assessments in 2010 for taxes
21.22 payable in 2011, and thereafter.

21.23 Sec. 6. **ANNUAL REPORT ON AGRICULTURAL VALUATION AND**
21.24 **CLASSIFICATION.**

21.25 The commissioner of revenue must study and annually report to the chairs of the
21.26 committees on taxes of the senate and the house of representatives on:

21.27 (1) trends in market values of class 2a and 2b properties;

21.28 (2) green acres value methodology and determinations; and

21.29 (3) assessment and classification practices pertaining to class 2a and 2b property.