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**OFFICE OF THE LEGISLATIVE AUDITOR**  
STATE OF MINNESOTA

**EVALUATION REPORT**

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**“Green Acres” and  
Agricultural Land  
Preservation Programs**

**FEBRUARY 2008**

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## OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

February 2008

Members of the Legislative Audit Commission:

We evaluated three of Minnesota's programs that provide tax advantages to agricultural land—the "Green Acres" Program and two agricultural land preservation programs. This report presents the results of our evaluation of these programs.

We found that the Green Acres Program substantially reduces the variation in taxable value between farmland with value added by nonagricultural factors and that without. Nevertheless, it is not effective at preserving farmland, and the Legislature should reconsider who and what types of land should benefit from the program.

We found that the state's agricultural land preservation programs can help to slow the rate of development, but they do not adequately assure long-term preservation of farmland. If the state wants to preserve farmland for the long term, it will need to adopt other approaches.

This report was researched and written by Jody Hauer (project manager) and Dan Jacobson.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nobles".

James Nobles  
Legislative Auditor



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# Summary

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**Together, Minnesota's agricultural land protection programs, which cost about \$40 million in 2007, are generally effective at equalizing taxes, but they do not effectively preserve farmland for the long term.**

## Major Findings:

- The Green Acres Program effectively equalizes taxes for many agricultural landowners but does not help all who could be eligible. The program's effect on preserving farmland is short term and tenuous (p. 30).
- It is unclear whether the Green Acres Program's goals include benefiting some owners and types of land, such as untillable land used mostly for hunting (p. 35).
- Certain Green Acres Program eligibility criteria, including the income threshold and definition of land that is "primarily" agricultural, are outdated, difficult to implement fairly, or create inequities (p. 39).
- Not all counties that could have implemented the Green Acres Program have done so, and administration of the program is inconsistent. Recent Department of Revenue actions will help but can be improved (p. 43).
- The Metropolitan Agricultural Preserves Program and the Agricultural Land Preservation Program in Greater Minnesota can help control the shape and pace of development but are not adequate to preserve farmland for the long term (p. 54).
- In a few cases, counties have spent money raised through the farmland preservation programs on natural resource conservation projects that may not meet a strict

interpretation of state statutes, but additional oversight is necessary only if the Legislature wants to further restrict the spending (p. 63).

## Recommendations:

- The Legislature should clarify who and what types of properties should benefit from the Green Acres Program (p. 38).
- The Legislature should replace the minimum income criterion in the Green Acres Program with more specific language to help define land that is "primarily" agricultural (p. 42).
- The Department of Revenue should continue efforts to make the Green Acres Program more consistent statewide but also make some changes, such as to its method for valuing nontillable land in the program (p. 50).
- If Minnesota wishes to preserve lands for agricultural uses over the long term, the Legislature should consider supplementing existing programs with other strategies. It should also improve current programs by specifying who has authority to enforce them (p. 62).
- The Legislature should determine whether spending program revenues on natural resource projects other than agricultural land preservation and soil conservation is unacceptable, and if so, it should specify in law the unallowable activities (p. 65).

## Report Summary

More than three decades ago, Minnesota adopted programs to protect agricultural land. The Agricultural Property Tax Law, known as "Green Acres," reduces taxes on certain agricultural land. The Metropolitan Agricultural Preserves Act for the seven-county metropolitan area and the Agricultural Land Preservation Program for Greater Minnesota were intended to protect farmland for long-term agricultural uses.

Overall, we estimate these three programs reduced property taxes for enrolled landowners in 2007 by \$40 million. Nearby property owners not in the programs make up most of this by paying somewhat more in taxes than they otherwise would.

Minnesota has 29.5 million acres of land classified as agricultural, which is 58 percent of the state's total land area. But it has gradually lost farmland, with a 2 percent loss between 1982 and 1997.

Land qualifies for the Green Acres Program only if nonagricultural factors (such as development pressures) are adding to its value. The program reduces property taxes by lowering the taxable value of eligible land, and it defers the payment of special assessments. About 13 percent of the state's farmland is enrolled. If land becomes ineligible, landowners must pay back the tax break from the most recent three years and all of the deferred special assessments. Tax deferrals from earlier years, however, are a permanent tax break.

Land enrolled in the Metropolitan Agricultural Preserves Program also

enjoys a lower taxable value. In addition, owners receive a tax credit of about \$1.50 per acre, do not pay special assessments, and receive protections from annexation and local ordinances that might interfere with normal farming practices. However, only land in areas designated for long-term agricultural use is eligible. Owners must agree to a covenant on their land's title, restricting use to agriculture, and the restrictions remain in place for eight years after notice is filed to terminate the agricultural preserve. About 25 percent of farmland in the metropolitan area is enrolled.

In Greater Minnesota, the farmland preservation program operates in Waseca, Winona, and Wright counties, where enrollment is 33, 13, and 3 percent of farmland, respectively. Enrolled landowners receive many of the same benefits described for the program in the metropolitan area, except the land's taxable value is not lowered and property taxes are not deferred.

**The Green Acres Program equalizes taxes for many agricultural landowners but does not help all who may be eligible, and it does not preserve farmland for the long term.**

The Green Acres Program substantially reduces the variation in taxable value between farmland with value added by nonagricultural factors and that without. As an example, for enrolled farmland in the Twin Cities area, the program substituted an average agricultural-use value of \$3,600 per acre for the average estimated market value of \$13,800 in 2007. But not everyone who is potentially eligible receives benefits. Assessors have not

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**The Green Acres Program reduces the taxable value of qualifying farmland.**

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**It is important to review the types of lands that benefit from the Green Acres Program because benefits have grown, and the program shifts more taxes onto land not in the program.**

implemented the Green Acres Program in all areas where it could be used, and some landowners fail to apply or are not made aware of the program.

The Green Acres Program's effects on preserving farmland are of short duration. Landowners need not make any long-term commitments to the land. Especially in areas with development pressures, the amount of the tax benefit from the program, and the penalty of paying back three years worth of deferred taxes, are typically small relative to the financial gain of selling the land. Plus, the program is not targeted to farmland free of nearby land-use conflicts or land at threat of imminent development.

**It is unclear whether the Green Acres Program's goals include benefiting certain landowners and land types that receive benefits.**

Among beneficiaries of the Green Acres Program are people who are not farmers, land with only a small proportion of productive acres, farmland with increased values due to recreational demands, and minimal acreages used largely for hobby farm purposes. The law does not prohibit this, but in light of the sizable tax advantages provided by the program, it is appropriate to ask whether these beneficiaries should receive the benefits that come at the expense of other taxpayers not in the program. The Legislature should clarify the types of land to benefit.

**Certain eligibility criteria for the Green Acres Program are outdated, difficult to implement fairly, or create inequities.**

The program's income criterion has remained the same since 1969, and it does not filter out all minimal agricultural-production incomes. At the same time, the low threshold allows certain farmers, such as those on retirement incomes, to be eligible. Verifying applicants' incomes is difficult because landowners are reluctant to divulge personal financial data, not all file the income tax schedules used for verification, and assessors lack authority to verify private data.

Property-tax classification statutes list types of agricultural products for defining agricultural land but do not specify how much of a commodity is sufficient to qualify. Therefore, decisions regarding how many chickens on ten acres of land qualify as agricultural, for instance, are subjective. Furthermore, especially for small parcels, assessors have to determine whether the land is "primarily devoted to agricultural use," which is not defined in statute.

The Legislature should replace the minimum income criterion with more specifics for classifying farmland and defining "primarily" agricultural. Additional specificity would clarify for taxpayers and assessors what is and is not allowed.

**Implementation and administration of the Green Acres Program has been inconsistent. Department of Revenue efforts to improve consistency will help but can be improved.**

As of 2007, 35 counties had not implemented the Green Acres Program. Because some of those counties have nonagricultural factors influencing the value of farmland, certain landowners there are not

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**Land enrolled in the state's two farmland preservation programs peaked in 1998, and enrollments have been declining ever since.**

receiving the tax benefits to which the law entitles them. In counties with land enrolled, assessors use different methods for deciding the primary use of the land, informing landowners about the program, and determining eligibility in special cases, such as when a parcel has multiple owners. Because these methods determine who receives the tax advantages and who is ineligible, consistency is important.

The Department of Revenue released a bulletin in October 2007 with a new statewide method for determining the low value of Green Acres parcels. To improve consistency among counties, the bulletin provides guidance to assessors on several matters, such as determining whether small properties qualify. The department should continue these efforts but should also make some changes, such as to its method for valuing nontillable Green Acres land.

**Minnesota's two agricultural land preservation programs can shape development and slow its pace but are not adequate to preserve farmland for the long term.**

Many counties and municipalities with land enrolled in one of the two preservation programs view them as an integral support for their local land policies. In their view, the programs help stage development, give farmers an incentive to continue farming, and prevent annexation that converts farmland to other uses.

At the same time, local government representatives generally believed that even without the tax incentives, their counties would not have developed much differently. The programs' effect on preserving

farmland is limited in part because only 25 percent of farm acres in the Twin Cities area and under 1 percent in Greater Minnesota are enrolled.

Since 1998 when enrollment in the two farmland preservation programs peaked, enrolled acres dropped 10 percent in the Twin Cities area and between 1 and 20 percent in Waseca, Winona, and Wright counties. Even in Carver County, which arguably has the strongest preservation program, 16 percent of acres once in agricultural preserves have expired since peak enrollment in 1998.

The financial benefits of the preservation programs are typically small relative to financial gains from selling the land. In the last ten years, the market value of farmland in the Twin Cities increased by an average of \$8,100 per acre, which reduces the incentive to retain the land for agricultural uses.

No state or local agency has enforcement authority over land in agricultural preserves. In a small number of cases, land was converted to other uses without waiting for the eight-year period required in law.

If the Legislature wishes to preserve agricultural land for the long term, it should consider supplementing existing programs with new approaches, but the options carry high costs. The Legislature should improve the existing laws by specifying who is to enforce them.

Money raised in the preservation programs has been largely spent on natural resource conservation, but some projects may not meet a strict interpretation of the law. Additional oversight is necessary only if the Legislature wants to further restrict the spending.

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**If Minnesota wants long-term preservation of agricultural lands, it must take new approaches, but they would be costly.**

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# Introduction

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Minnesota has three primary state programs intended to protect agricultural lands. One is known as the “Green Acres” Program, and it lowers the taxable value of qualifying farmland. It has drawn recent legislative attention because it is available in only some, not all, counties, and there were indications that it was administered inconsistently. The other two programs are designed specifically to preserve farmland and prevent it from being used for other purposes. One is the Metropolitan Agricultural Preserves Act, which applies to the seven-county metropolitan area. The second is the Agricultural Land Preservation Program, which is for Greater Minnesota.<sup>1</sup>

In April 2007, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate the Green Acres Program and the two agricultural land preservation programs. Our evaluation addresses the following questions:

- **What are the Green Acres Program and the programs for preserving agricultural land, and what are their differences?**
- **How much in property tax benefits do program participants receive, and how do the programs affect property taxes paid by nonparticipants?**
- **How effective are the programs?**
- **Who benefits from the Green Acres Program, and how appropriate are the program’s eligibility criteria?**
- **How have the dollars raised as part of the agricultural land preservation programs been spent, and who oversees that spending?**

To answer the questions, we reviewed reports and state laws on the programs. We analyzed data from the Department of Revenue’s property tax records and the U.S. Department of Agriculture. We interviewed staff from state agencies and surveyed or interviewed most county assessors around the state. We reviewed program applications in six counties and spoke with a small number of landowners who either were already enrolled or wanted to apply. With data and staff from the Minnesota House of Representatives Research Department, we analyzed how the Green Acres and Metropolitan Agricultural Preserves programs affect property taxes. We interviewed a sample of local planning directors and

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<sup>1</sup> Throughout this report, we refer to the Agricultural Land Preservation Program in “Greater Minnesota,” which comprises the 80 counties beyond the seven-county Twin Cities metropolitan area, even though the statutes do not use this terminology.

heads of organizations that oversee the spending of revenues raised in connection with the land preservation programs. In addition, we researched national literature and other states' programs on preserving agricultural land.

Although the Minnesota departments of Agriculture and Revenue are involved with the programs, we did not directly evaluate their performance. Nor did we survey the landowners who participate in the land protection programs, although we interviewed a small, nonrepresentative sample of them. We gathered information from county assessors, but we did not examine the consequences of their different practices for assessing the value of agricultural properties.

This report's first chapter provides background information on the Green Acres Program and the two agricultural land preservation programs. It also offers a brief description of other types of farmland protection programs. Chapter 2 evaluates the effectiveness of the Green Acres Program. Chapter 3 evaluates the effectiveness of Minnesota's farmland preservation programs and reviews how revenues associated with those programs are spent. Chapter 4 provides a brief overview discussion of the programs as a whole.

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# Background

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## SUMMARY

*Minnesota has 29.5 million acres of agricultural land as of 2007, but it lost 2 percent of its farmland between 1982 and 1997, and data suggest additional losses since then, although the precise amount is not known. The state's "Green Acres" Program defers special assessments and reduces property taxes for agricultural landowners who meet the law's requirements on income, ownership, and land use and size. The Green Acres Program applies only where nonagricultural factors add higher value to farmland prices. It lowers property taxes by basing properties' taxable value on their agricultural use instead of "highest and best" use. Since 2000, acreage enrolled in the Green Acres Program has tripled to 3.7 million acres, due to growth in Greater Minnesota. Minnesota also has two separate but similar state programs specifically to preserve agricultural land. One program is in the Twin Cities metropolitan area, where six of seven counties have land enrolled, and the second is in Greater Minnesota, where three counties have land in the program. As of 2007, about 315,000 acres, or 1 percent of the state's farmland, were enrolled. Due to the three programs, agricultural landowners' property taxes for 2007 were reduced by about \$40 million, and surrounding property owners make up most of that by paying somewhat more property tax than they otherwise would.*

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Minnesota's property tax system targets certain programs to agricultural lands. One is Minnesota's so-called "Green Acres" Program, structured to equalize tax burdens for qualifying agricultural landowners. Two others are land preservation programs designed to retain agricultural land that might otherwise be converted to other uses. This chapter provides an overview of the Green Acres Program and the state's two programs for preserving farmland. Specifically, this chapter answers the following questions:

- How much farmland is in Minnesota, and how has this changed over time?
- What is the Green Acres Program, and how do landowners qualify for it?
- What are Minnesota's programs for preserving agricultural land? What are the differences between them?
- How much in property tax benefits do program participants receive, and how do the programs affect property taxes paid by nonparticipants?
- What other mechanisms to preserve farmland are available in Minnesota?
- What farmland preservation programs are in other states?

To answer these questions, we examined data on farmland from various sources including the Department of Revenue’s property tax records and the U.S. Department of Agriculture’s National Resources Inventory. We analyzed trend data on acreage enrolled in Green Acres and values of agricultural land. Also, with help from the Minnesota House of Representatives Research Department, we estimated how the Green Acres and Metropolitan Agricultural Preserves programs affect property taxes. We reviewed state statutes and studied relevant documents from the Department of Revenue, and we interviewed department staff. In addition, we researched national literature and other states’ programs on preserving agricultural lands.

## FARMLAND ACREAGE

In 2007, Minnesota’s county assessors classified about 29.5 million acres of land as agricultural, or about 58 percent of Minnesota’s total land area.<sup>1</sup> This farmland includes land used to plant crops, pasture land for grazing animals, and other land that is not used for agricultural production (such as woodland and wasteland), if it is part of a farm with at least ten acres in agricultural production.

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**About 58 percent of Minnesota’s total land area is classified as agricultural property.**

Although the percentage of land classified as agricultural varies widely among counties, most Minnesota counties have most of their land in farms. In 2007, 68 counties classified at least 50 percent of their land as agricultural, especially counties in southern, western, and northwestern Minnesota, as shown in Figure 1.1. Thirty-five counties classified 90 percent or more of their land as agricultural.

Minnesota has been gradually losing farmland over the past 25 years. Between 1982 and 1997, Minnesota lost about 500,000 acres of farmland, a decline of about 2 percent, according to the U.S. Department of Agriculture’s National Resources Inventory data. The Department of Revenue’s property tax records and the U.S. Census of Agriculture both indicate that farmland loss continued after 1997, but their loss estimates differ and neither measures the state’s farmland loss as reliably as the National Resources Inventory data.

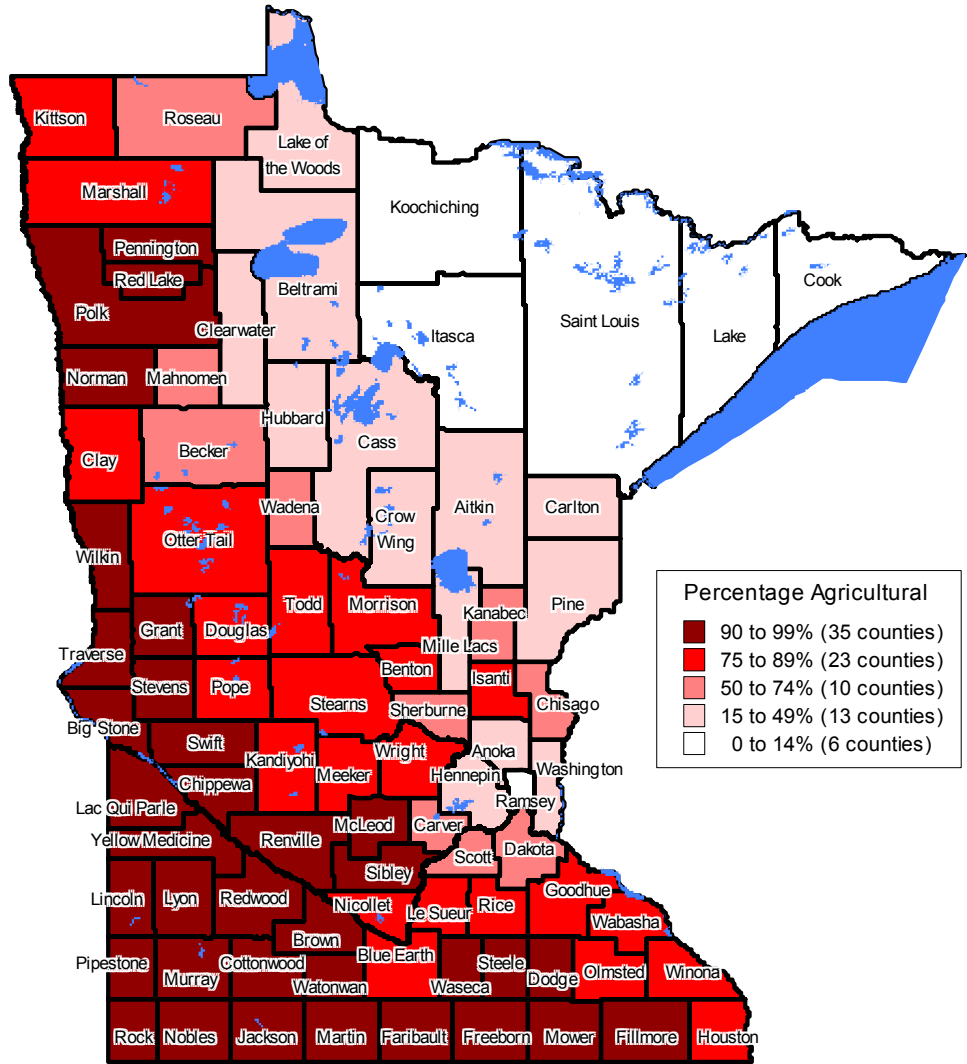
Between 1982 and 1997, counties in the Twin Cities metropolitan area have lost farmland more rapidly than the rest of the state, as shown in Figure 1.2. The seven-county Twin Cities metropolitan area lost about 18 percent of its farmland; Greater Minnesota lost about 1 percent.<sup>2</sup> In the next sections, we describe Minnesota’s farmland protection programs.

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<sup>1</sup> Based on a more restrictive definition of farmland, the U.S. Department of Agriculture’s Census of Agriculture estimated that Minnesota had 27.5 million acres of farmland in 2002. We used property tax data on farmland here because they are the most recent data available.

<sup>2</sup> Other data sources, including the Department of Revenue’s property tax assessment data and the U.S. Census of Agriculture, show similar patterns between 1982 and 1997, although their rate of decline was larger.

**Figure 1.1: Percentage of Land Classified as Agricultural, 2007**



SOURCE: Office of the Legislative Auditor, analysis of data from the Department of Revenue's 2007 Spring Mini Abstract.

## “GREEN ACRES” PROGRAM

The Legislature passed the Minnesota Agricultural Property Tax Law, most commonly known as the “Green Acres” Program, in 1967.<sup>3</sup> The law lowers taxable values on certain farmland and allows landowners to defer paying special assessments and portions of property taxes. Its benefits apply, however, only where nonagricultural influences (such as development pressures) drive prices

<sup>3</sup> *Laws of Minnesota* 1967 Extra Session, chapter 60.



the two values. To determine this lower value, the law instructs assessors to consider sales of agricultural lands outside the seven-county metropolitan area and compare land of similar soil types and other agricultural characteristics.<sup>4</sup> Furthermore, assessors are to avoid considering additions to the land's value from nonagricultural factors, such as increases due to a buyer's interest in developing the land for a retail complex.

The second of the two values is a market value, based on the usual selling price of farmland in an open market during arm's length transactions between willing buyers and sellers. This second value is a higher value because it reflects buyers' willingness to pay more for the property than it is worth as agricultural land. Farm properties free of influences from nonagricultural factors are already assessed at the low value based purely on those lands' agricultural uses and, consequently, are not enrolled in the Green Acres Program.

## Landowner Benefits

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**Green Acres landowners pay less in property taxes, and other properties in the jurisdiction typically pay more to make up the difference.**

In general, Green Acres property owners will owe less in property taxes, and the remaining properties in the taxing jurisdiction will bear slightly higher tax burdens to make up the difference. For an individual landowner enrolled in Green Acres, the tax benefit can be significant. The greater the difference between the low and high values of the property, the larger the tax reduction for the owner. As an example, one owner of 76 agricultural acres in a central Dakota County township owed property taxes of \$422 in 2007, 46 percent less than the \$778 he would have owed if not enrolled in Green Acres. Land located near more developed areas realize even greater equalization benefits. For instance, a landowner of 33 agricultural acres across from a housing development in the city of Rosemount owed \$624 in 2007 property taxes, 94 percent less than the \$10,128 he would have owed if the land were not in the program.

The size of the tax increase for other property taxpayers will also vary depending on an area's mix of land types. If farmland makes up a small proportion of the overall tax base, the shift in tax burden will be small when apportioned over remaining landowners. On the other hand, if farmland enrolled in Green Acres makes up a large segment of the area's tax base, and there is a large difference between the farmland's market value and its Green Acres low value, the remaining landowners will bear a large tax burden to cover the amount that is deferred for Green Acres landowners. Later in this chapter, we examine how the Green Acres Program affects property taxes of participating and nonparticipating landowners.

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**When land no longer qualifies for the Green Acres Program, three years worth of tax reductions come due.**

More specifically, as long as land remains enrolled, the Green Acres Program defers a portion of the property taxes and all special assessments that may have been charged (such as for road improvements). Once the land no longer qualifies, the taxes deferred for the current year and prior two years come due, as do all of the deferred special assessments plus interest. Taxes deferred earlier than the most recent three years, however, become a permanent tax break.

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<sup>4</sup> *Minnesota Statutes* 2007, 273.111, subd. 4.

Should Green Acres land be sold to new owners who apply within 30 days of the sale and who are eligible for the program, the taxes and special assessments continue to be deferred.<sup>5</sup>

## Eligibility

Not all agricultural land qualifies for Green Acres Program benefits. Landowners must apply for the program, and assessors determine who is eligible. Eligibility depends on meeting statutory criteria regarding ownership of the land, income from the property, and land size and use. Table 1.1 lists the criteria. When landowners have less desirable agricultural lands, such as slough, wasteland, and woodland, that are near to or surrounded by land that qualifies for the Green Acres Program, that less desirable land is also entitled to Green Acres benefits.<sup>6</sup>

## County Participation and Farmland Enrollment

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**Originally, the Green Acres Program predominated in the Twin Cities area, but now 51 counties have land enrolled.**

Since the Green Acres Program was established in the late 1960s, it has changed from a program concentrated in the Twin Cities area to a program covering 51 counties across the state. In 1970, five counties in the seven-county Twin Cities metropolitan area used the Green Acres program.<sup>7</sup> By 1977, 16 counties participated, including all the counties in the seven-county metropolitan area, 4 fast-growing counties just to the north of the metropolitan area (Chisago, Isanti, Sherburne, and Wright Counties), and Rice County, which is on the southern edge of the metropolitan area. Participation expanded to 23 counties for properties assessed in 1990, 36 counties in 2000, and 51 counties in 2007.

While some counties from Greater Minnesota have participated in Green Acres for decades, little farmland from Greater Minnesota was enrolled in Green Acres until after 2000. Prior to 2000, enrollment was concentrated in the Twin Cities metropolitan area and the four counties on its northern border. For properties assessed in 1999, these 11 counties enrolled nearly 1.2 million acres in Green Acres, compared with 81,000 for the remaining 76 counties in Greater Minnesota, as shown in Table 1.2. But after 2000, enrollment in these 76 counties increased more than 30-fold, reaching 2.7 million acres for properties assessed in 2007. Because of this rapid growth in Greater Minnesota, statewide enrollment tripled between 1999 and 2007, reaching 3.7 million acres. Unlike Greater Minnesota, enrollment in the Twin Cities area declined slightly both during the 1990s and after 2000.

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<sup>5</sup> New owners who do not want a continued deferral of special assessments would have to arrange repayment by the seller at the time of purchase.

<sup>6</sup> *Minnesota Statutes* 2007, 273.111, subd. 6(2).

<sup>7</sup> A March 10, 1977, Department of Revenue memorandum to the Commissioner of Revenue indicates that Blue Earth County may have used the program since 1970, although the Blue Earth County Assessor could verify enrollment back to only 1974.

**Table 1.1: Eligibility Criteria for Green Acres Program, 2007**

Ownership	Income	Land Size and Usage
One of the following four conditions must apply:	One of the following must be met:	Land must be all of the following:
<ul style="list-style-type: none"> <li>• Owner (or owner’s spouse, child, or sibling) homesteads the land; or</li> <li>• Owner (or owner’s spouse, parent, or sibling) must have owned the land for at least seven years, or the land is farmed along with qualifying land that is within four townships or cities away; or</li> <li>• Land is the homestead of a shareholder in a family farm corporation; or</li> <li>• Land is owned by a nursery or greenhouse</li> </ul>	<ul style="list-style-type: none"> <li>• At least 1/3 of owner’s total family income comes from the land, or</li> <li>• Total production income from the land (including rental charges) is at least \$300 plus \$10 per tillable acre</li> </ul> <p>Plus, the property must be devoted to the production for sale of agricultural products<sup>a</sup></p>	<ul style="list-style-type: none"> <li>• Classified as agricultural property</li> <li>• At least 10 acres in size or a nursery or greenhouse</li> <li>• Primarily devoted to agricultural use</li> </ul>
Plus, owner must be either a:		
<ul style="list-style-type: none"> <li>• Noncorporate entity,</li> <li>• Family farm operation, or</li> <li>• Corporation deriving at least 80 percent of gross receipts from sale of horticultural or nursery stock.</li> </ul>		

**Eligibility for the Green Acres Program depends on land ownership, income from the land, and land size and use.**

NOTES: Landowners must meet criteria on ownership, income, and land size and usage, but within the ownership and income criteria, any one of multiple standards may be met. Slough, wasteland, and woodland contiguous to qualifying land and under the same ownership are also eligible.

<sup>a</sup> Agricultural products are defined in *Minnesota Statutes* 2007, 273.13, subd. 23(e), and include: livestock, dairy products, poultry, horticultural and nursery stock, fruit, vegetables, forage, grains, bees, fish bred for sale, maple syrup collected by licensed processors, and trees grown as a crop but not sold for timber or wood products.

SOURCES: *Minnesota Statutes* 2007, 273.111, subd. 3 and 6.

**Table 1.2: Trends in Green Acres Program Enrollment, for Property Assessed in 1999-2007**

	Enrollment (in acres)		Percentage of Farmland Enrolled	
	1999	2007	1999	2007
Twin Cities seven-county metro area	396,259	342,034	48%	47%
Four fast-growing counties north of the metro area (Chisago, Isanti, Sherburne, and Wright)	759,145	671,270	80	77
Other 76 counties	81,067	2,714,284	0.3	10
State Total	1,236,471	3,727,588	4%	13%

NOTE: Land is enrolled in the program at least one year prior to when taxes are paid; for instance, enrollment occurred in 2007 or earlier years for taxes to be paid in 2008.

SOURCE: Office of the Legislative Auditor, analysis of data from the [Land Economics database](#) maintained by the University of Minnesota, Department of Applied Economics.

**Green Acres enrollment tripled since 1999, due to growth in Greater Minnesota.**

Today, the Green Acres Program is concentrated in 25 counties, which account for 96 percent of the state’s 3.7 million acres enrolled. Statewide, 13 percent of Minnesota’s farmland is enrolled in Green Acres, compared with 47 percent for the 25 counties with the heaviest use.<sup>8</sup> Figure 1.3 illustrates how the percentage of farmland enrolled in Green Acres varies across the state. Enrollment as a percentage of farmland is highest in the Twin Cities metropolitan area, seven of the nine counties surrounding the metro area, the St. Cloud area, and the state’s southeast corner.

## Program Administration

Counties administer the Green Acres Program. County assessors are responsible for accepting applications, determining who qualifies, and assigning values to eligible properties.<sup>9</sup>

Minnesota’s Department of Revenue plays a more limited role. For the Green Acres Program specifically, state law allows the commissioner of revenue to prescribe the application form that interested landowners complete. More generally, the commissioner has authority for general supervision over assessors and the administration of property tax laws so that assessments are just and equal.<sup>10</sup> The commissioner may determine whether assessors are faithfully discharging their duties; deals with complaints of unequal or improper

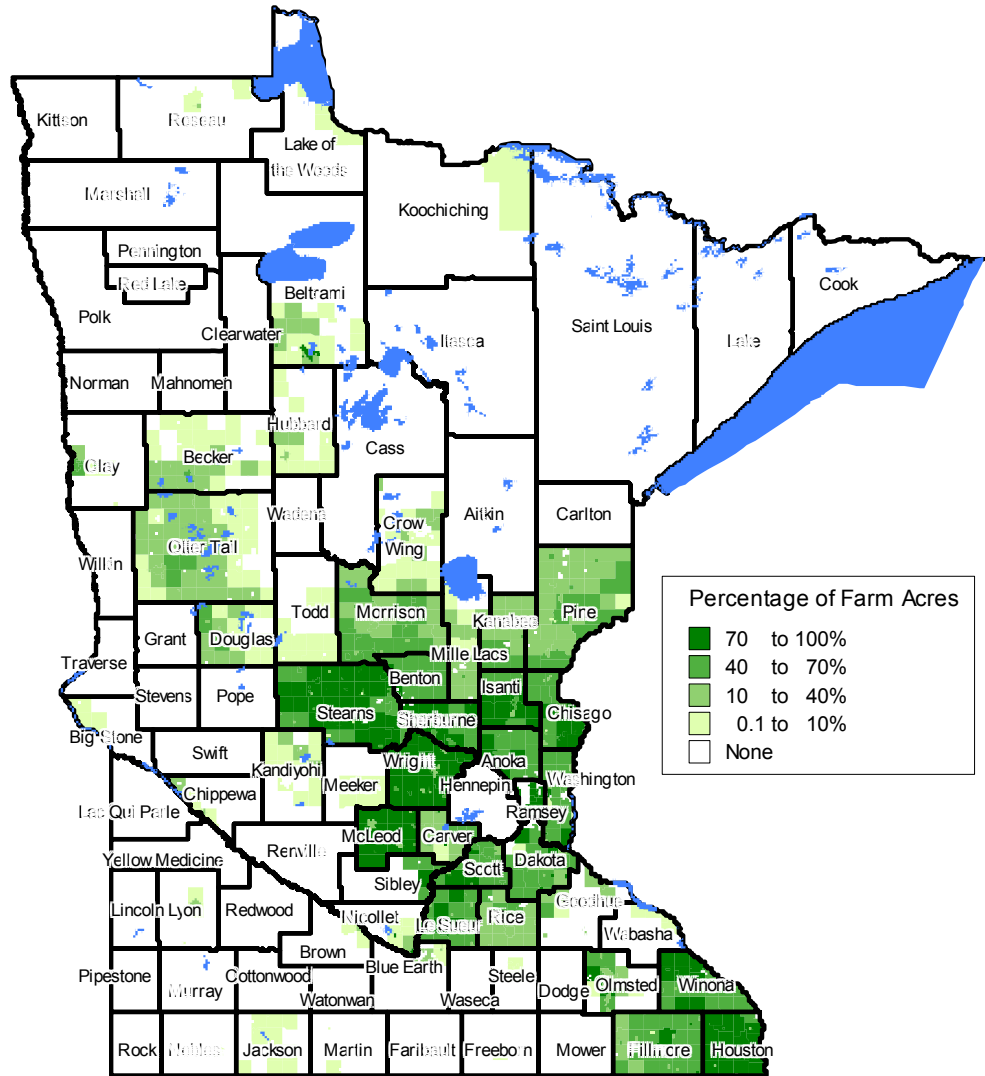
<sup>8</sup> Among participating counties, 14 counties enrolled less than 1 percent of their farmland in the Green Acres Program.

<sup>9</sup> *Minnesota Statutes* 2007, 273.111, subd. 4, 5, and 8.

<sup>10</sup> *Minnesota Statutes* 2007, 270C.85, subd. 1.

assessments; and, with authority as the State Board of Equalization, may change assessment decisions made locally to enforce statewide equalization among property values.<sup>11</sup>

**Figure 1.3: Percentage of Farmland Enrolled in Green Acres Program, for Properties Assessed in 2007**



NOTE: Data on farmland by city/township are unavailable for Hennepin County. Data are based on assessment year 2007, for property taxes to be paid in 2008.

SOURCE: Office of the Legislative Auditor, analysis of data from the Department of Revenue's 2007 Spring Mini Abstract.

<sup>11</sup> *Minnesota Statutes* 2007, 270C.85, subd. 2(f); 270C.92, subd. 1; and 270.12, subd. 2 and 5. Further, if assessments are found to be grossly unfair or inequitable, the commissioner may appoint a special assessor to conduct a local reassessment. See: *Minnesota Statutes* 2007, 270C.94, subd. 1.

The Department of Revenue includes information on the Green Acres Program in its instruction manuals for assessors and auditors. Over the years, the department has intervened when county assessors or residents had Green Acres issues that could not be resolved locally. The department has issued memos and bulletins on the program and sent letters to clarify questions that the law itself did not fully answer. As an example, a taxpayer, who for several years had paid special assessments on his land, recently enrolled in the Green Acres Program, and questions arose over whether the special assessments, passed years earlier, were to be deferred. The department advised the assessor that newly enrolled land could indeed have the existing special assessments deferred but suggested contacting the landowner about the desirability of doing so because the deferment plus interest may have to be paid back when the land is sold or no longer qualifies for Green Acres. Such department communications are made available as resources to other county assessors who may face similar situations.

## Recent Changes

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**A 2006 Department of Revenue report on the Green Acres Program highlighted a need to reexamine what types of land should qualify.**

In response to a 2005 legislative requirement, the Department of Revenue released a 2006 report on the Green Acres Program.<sup>12</sup> The report, based on work by a committee including department officials and county assessors, raised several issues about the Green Acres Program, such as under what circumstances the program should be implemented and how assessors should set the low value for Green Acres land.

Among the issues were several that the report recommended the Legislature resolve. A number dealt with the legislative intent behind the law, which the report said has become less clear since it passed in 1967. The Legislature was asked to clarify whether the program was intended to equalize the value of agricultural land on a statewide basis, which would pose difficulties because comparable data on the quality of agricultural land are not available for each county. Tied to this is a question of whether the program is intended to preserve agricultural land exposed to urban development or, instead, to solely equalize tax burdens, as is explicitly expressed in statutes.<sup>13</sup> Second, the report requests legislative review of statutory minimums on acreage and income, which have allowed small hobby farms to qualify for the Green Acres Program. Finally, it suggests the Legislature consider the appropriateness of some assessors' practice of splitting a property's tax classification when the land is used for multiple purposes, such as for a residence and a farm. Although the 2007 Legislature passed a tax bill containing changes to the Green Acres Program, the Governor vetoed the bill.<sup>14</sup>

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<sup>12</sup> Minnesota Department of Revenue, *Assessment and Classification Practices Report: Agricultural Land Including Land Enrolled in the Green Acres Program* (St. Paul, April 2006).

<sup>13</sup> *Minnesota Statutes* 2007, 473.211, subd. 2, says the “public interest would best be served by equalizing tax burdens upon agricultural property....”

<sup>14</sup> Minnesota Legislature 2007, *Senate File 1024, 2nd Engrossment*, art. 5, sec. 13, would have increased the income criterion to qualify for the Green Acres Program. The Governor's veto message did not make reference to these provisions.

Following the 2006 report, the department convened a Green Acres working group, comprised of department officials and county assessors, to discuss changing the program. Based on the working group's discussions, the department released an October 2007 Green Acres bulletin that addresses some of the questions posed in the 2006 report.<sup>15</sup> To encourage uniformity, it lays out a new method, to be used statewide, for determining the low value of Green Acres properties, and it requires each county assessor to submit a Green Acres implementation plan by June 2008. We address certain aspects of the 2007 bulletin in Chapter 2.

## PROGRAMS FOR PRESERVING AGRICULTURAL LAND

**One farmland preservation program is for the Twin Cities area, and a second is for Greater Minnesota.**

Minnesota has two separate but similar programs specifically intended to preserve agricultural land. One is the Metropolitan Agricultural Preserves Act, enacted for the seven-county metropolitan area. The second is the Agricultural Land Preservation Program, which is structured for Greater Minnesota counties and municipalities that are willing to designate land for long-term agricultural use. We will first describe the Metropolitan Agricultural Preserves Program, followed by the program for Greater Minnesota.

### Metropolitan Agricultural Preserves Act

In 1980, the Legislature passed the Metropolitan Agricultural Preserves Act for the purpose of maintaining “viable productive farm operations in the metropolitan area.”<sup>16</sup> Six of the seven counties from the Twin Cities metropolitan area have had land enrolled in the Metropolitan Agricultural Preserves Program since 1983; Ramsey County does not have land enrolled largely because it has few farms and just 275 agricultural acres. The act requires action by both local governments and landowners. First, in their land-use planning, metropolitan-area local governments must designate areas within their boundaries as “agricultural preserves,” which will be set aside for long-term agricultural uses with no more than one dwelling allowed for every 40 acres.<sup>17</sup> Second, landowners within an agricultural preserve must agree to have added to their land's certificate of title a covenant restricting use of the land to agriculture, in exchange for certain tax advantages and other nonmonetary benefits. The state has little involvement in, or oversight of, the process.

### Landowner Benefits

Part of the tax benefit for landowners agreeing to the restrictive covenant is similar to that provided by the Green Acres Program—assessors use a low, agricultural-use value to set the land's taxable value. No additional value from

<sup>15</sup> Minnesota Department of Revenue, *Green Acres Bulletin #1* (St. Paul, October 2007).

<sup>16</sup> *Laws of Minnesota* 1980, chapter 566, sec. 1.

<sup>17</sup> Land-use planning is done by cities and some townships and, in some cases, counties are in charge of the planning on behalf of townships.

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**The Metropolitan Agricultural Preserves Program lowers the enrolled lands' taxable value and provides other benefits.**

nonagricultural factors may be considered in setting the value, and the lower taxable value translates into lower property taxes owed. As a bonus, landowners receive a tax credit of approximately \$1.50 for every acre in the agricultural preserve, further reducing their tax bills.<sup>18</sup> In contrast to the Green Acres Program, though, the landowner in Metropolitan Agricultural Preserves is not required to pay back any amount of the reduced property tax, even when the preserve expires.

Beyond the tax advantages, landowners with property enrolled in Metropolitan Agricultural Preserves receive protections against interference with their farming operations. Statutes prohibit local units of government from enacting ordinances that would unreasonably regulate farm structures or practices, barring an immediate and substantial threat to public health and safety.<sup>19</sup> Public water and sewer systems are prohibited in agricultural preserves, and public roads or other public improvements in the vicinity of the preserve are deemed to be of no benefit to the land in the preserve.<sup>20</sup> This prevents land there from bearing the cost of the improvements.

Cities may not annex agricultural preserve land located in townships, except under special conditions.<sup>21</sup> Furthermore, any unit of government considering eminent domain actions for taking lands within an agricultural preserve must follow additional procedures to evaluate alternatives to acquiring that land. As part of the procedures, the Environmental Quality Board is authorized to delay the eminent domain action for a year if alternatives would have less of a negative impact on the preserve.<sup>22</sup>

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**To be eligible for the Metropolitan Agricultural Preserves Program, land must be in an area designated for long-term agricultural use.**

### **Eligibility and Expirations**

To be eligible for Metropolitan Agricultural Preserves, land must be at least 40 acres in size and in an area designated for long-term agricultural use. Certain exceptions exist to the minimum size requirement, such as a parcel that is at least

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<sup>18</sup> Technically, counties compute taxes on enrolled properties in two different ways and use whichever results in lower taxes for the owner. In one computation, the auditor multiplies the tax rate and the "net tax capacity" (taxable value) of the land, then subtracts \$1.50 per acre from the product. In the second, the auditor multiplies 105 percent of the previous year's statewide average local tax rate for township properties by the enrolled land's net tax capacity.

<sup>19</sup> *Minnesota Statutes* 2007, 473H.12.

<sup>20</sup> *Minnesota Statutes* 2007, 473H.11. If land in the Green Acres Program is transferred to the Metropolitan Agricultural Preserves Program, the special assessments may continue to be deferred until the agricultural preserve expires.

<sup>21</sup> *Minnesota Statutes* 2007, 473H.14. Exceptions require a finding by the state Office of Strategic and Long-Range Planning that (1) the preserve's expiration has begun, (2) the township is unable to provide normal governmental functions, or (3) the city would completely surround the preserve.

<sup>22</sup> *Minnesota Statutes* 2007, 473H.15, subd. 9. According to the Environmental Quality Board, no such delays have been approved.

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**Landowners participating in the Metropolitan Agricultural Preserves Program agree to “restrictive covenants” that require keeping the land in agricultural use.**

35 acres but less than 40 acres due to the existence of a public roadway.<sup>23</sup> The restrictive covenant requires the owner to keep the land in agricultural use and follow sound soil and water conservation practices.<sup>24</sup>

Once restrictive covenants are in place, they are binding on the owners and the owners’ successors, and the covenant runs with the land even when sold. Either the landowner or the local government may initiate action to allow agricultural preserves to expire, but expirations may not occur for at least eight years from the date of the action.<sup>25</sup> To initiate expiration, the local government must amend its comprehensive plan to remove zoning for the long-term agricultural area, and it must notify affected landowners by registered letter. A landowner may initiate expiration by notifying the local government that designated the preserve. After the eight-year period and on the date of expiration, all benefits and obligations related to the preserve cease. Landowners may file notices of expiration at the same time they apply for the agricultural preservation program; doing so permits them to allow the preserve to expire after eight years or reenroll the property at that time.

### Conservation Accounts

As stated, among the tax benefits of the Metropolitan Agricultural Preserves Program, participants’ tax bills are reduced by about \$1.50 per acre of land in the preserve. Local governments that lose tax revenues due to the \$1.50 per acre credit are reimbursed with money collected from a \$5 fee imposed whenever a mortgage or deed is recorded or registered in the county.<sup>26</sup> Revenues from the \$5 fee are divided between the state and the county, as Figure 1.4 depicts.

Each county receives half of the revenues and deposits them into a county conservation account, which is to be used for statutorily specified purposes. If the county’s conservation account has insufficient money to cover the reimbursement for the \$1.50 per acre tax credit, the state must make up the

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<sup>23</sup> *Minnesota Statutes* 2007, 473H.03, subd. 1-3. Certain 20-acre parcels are eligible if they have demonstrably high-quality soil, are considered to be an essential part of the agricultural region, were a parcel of record prior to 1980, and if surrounding land on at least two sides is eligible for an agricultural preserve.

<sup>24</sup> *Minnesota Statutes* 2007, 473H.16, subd. 1, and 473H.17, subd. 1. Landowners who are found to follow practices resulting in excessive soil loss, and who fail to enact corrective measures to prevent further loss, are subject to a civil penalty of up to \$1,000 and payment of court costs.

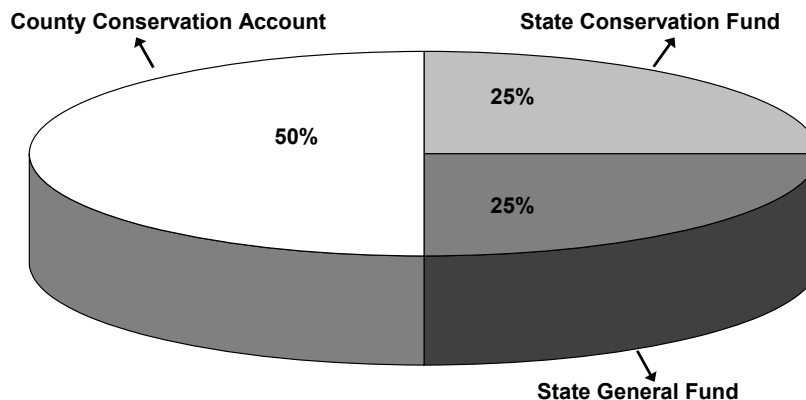
<sup>25</sup> *Minnesota Statutes* 2007, 473H.08, subd. 2-3. Terminations prior to the eight years are allowed when the governor has declared a public emergency and issues an executive order. We found no such executive orders. Prior to the eight years, Agricultural Preserves land may be taken by the state or local governments or other entities using eminent domain, but only after involving the Environmental Quality Board, which has authority to invoke a one-year delay in the taking.

<sup>26</sup> *Minnesota Statutes* 2007, 40A.152, subd. 1. Counties in the seven-county metropolitan area are required to impose the \$5 fee, regardless of how much or little of their land has been designated as agricultural preserves.

Tax credits to landowners participating in the agricultural land preservation programs are paid for with revenues from a \$5 fee charged when counties register mortgages and deeds.

Only three counties in Greater Minnesota have ever had land enrolled in the agricultural land preservation program.

**Figure 1.4: Distribution of Revenues from \$5 Fee on Mortgage and Deed Transactions**



NOTES: Counties in the seven-county metropolitan area are required to impose the \$5 fee. In Greater Minnesota, only the three counties participating in the Agricultural Land Preservation Program charge the fee.

SOURCES: [Minnesota Statutes](#) 2007, 40A.151, subd. 1, and 40A.152, subd. 1.

difference.<sup>27</sup> On the other hand, if county conservation accounts have more than what is needed to reimburse taxing jurisdictions for the tax credit, counties may spend the amounts for one of four purposes, as listed in Table 1.3.

## Greater Minnesota’s Agricultural Land Preservation Program

The 1984 Legislature passed the Agricultural Land Preservation Program, with goals of preserving agricultural land, preserving soil and water resources, and encouraging the orderly development of rural and urban land uses.<sup>28</sup> Although open to all localities in Greater Minnesota, only three counties—Waseca, Winona, and Wright—have ever enrolled acres in the program.

Counties choosing to participate are required to develop an agricultural land preservation plan, which is to be reviewed and approved by the commissioner of the Department of Agriculture. The plan must designate land suitable for long-term agricultural use and be integrated with the county’s comprehensive plan. When the legislation passed in 1984, an appropriation of \$300,000 was included

<sup>27</sup> [Minnesota Statutes](#) 2007, 473H.10, subd. 3(e). To reimburse local taxing jurisdictions, the state uses its share of the \$5 fee deposited in the Minnesota Conservation Fund. If that fund is insufficient, the state is obligated to make reimbursements from its General Fund.

<sup>28</sup> [Laws of Minnesota](#) 1984, chapter 654, art. 3, sec. 31-47.

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### Table 1.3: Activities on Which Counties May Spend Conservation Account Dollars

- Planning for agricultural land preservation and conservation and implementation of official controls<sup>a</sup>
- Soil conservation activities and enforcement of soil loss ordinances
- Incentives for landowners who create exclusive agricultural-use zones
- Payments to municipalities for the purposes listed above

NOTES: Counties may use Conservation Account dollars for these activities only after reimbursing taxing jurisdictions for annual revenues lost due to the \$1.50 per acre credited to landowners enrolled in either of the state's agricultural land preservation programs. Further, counties must have had equivalent expenditures from other county funds for the same purposes in the previous budget year. Money not encumbered within a year transfers to the state treasury.

<sup>a</sup> Official controls are policies for controlling the physical development of a county or municipality, such as zoning ordinances, subdivision controls, building codes, and official maps.

SOURCE: [Minnesota Statutes](#) 2007, 40A.152, subd. 2-3.

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for grants to help counties implement the program, although some of the money went unused and was returned to the state treasury.

#### Landowner Benefits

Although the land preservation programs in the Twin Cities area and Greater Minnesota are similar in some respects, the latter program's tax advantages are not as extensive. Property owners in the Greater Minnesota program receive a \$1.50 per acre credit to reduce their property taxes each year they have land enrolled.<sup>29</sup> The assessment of their properties' taxable values, however, is not reduced in areas where nonagricultural factors have increased agricultural land values (as is done in the Metropolitan Agricultural Preserves Program). Furthermore, once landowners give official notice to terminate an agricultural preserve, they are immediately ineligible for the \$1.50 per acre credit, although landowners in the Twin Cities program continue receiving the credit throughout the eight-year period until the preserve expires. Table 1.4 compares the programs' features.

Landowners enrolled in the Agricultural Land Preservation Program receive nonmonetary benefits, in addition to the \$1.50 per acre credit. The law prohibits local governments from enacting ordinances that regulate normal agricultural practices in a preserve, protecting farmers from restrictions on activities such as planting or harvesting that may create noise, dust, or other potential conflicts

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**The agricultural land preservation program in Greater Minnesota offers a \$1.50 per acre tax credit but does not reduce lands' taxable values.**

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<sup>29</sup> [Minnesota Statutes](#) 2007, 273.119, subd. 1.

**Table 1.4: Comparisons Among the Agricultural Land Preservation Programs and Green Acres Program, 2007**

	Metropolitan Agricultural Preserves	Agricultural Land Preservation	Green Acres
Assessor must use the low agricultural-use value to set the property value	✓		✓
Landowner who becomes ineligible must pay back three years of deferred taxes <sup>a</sup>		N/A	✓
Landowner may terminate from program in any given year			✓
A minimum acreage is needed to qualify	✓		✓
Land must be in area where a local government designated land for long-term agricultural use <sup>b</sup>	✓	✓	
After filing an expiration notice, landowner continues to receive tax benefits and other advantages for eight years	✓		N/A
Program requires county to charge \$5 fee on mortgage and deed registrations	✓	✓	
Program provides landowner a tax credit of \$1.50 per acre	✓	✓	
Program offers access to state's General Fund for reimbursing \$1.50 per acre tax credit	✓		N/A
Public water and sewer systems are prohibited on enrolled land	✓	✓	
City annexation of enrolled land is largely prohibited <sup>c</sup>	✓	✓	
Eminent domain action may be delayed for enrolled land	✓	✓	
Local governments may not pass ordinances restricting normal agricultural practices	✓	✓	
Department of Agriculture administers parts of the program		✓	

NOTE: The Metropolitan Agricultural Preserves Program applies to the seven-county metropolitan area, while the Agricultural Land Preservation Program applies to the rest of the state. The Green Acres Program is not designated for particular counties.

<sup>a</sup> If the land enrolled in Green Acres is transferred to the Metropolitan Agricultural Preserves Program, the payback is not required. In contrast, the Agricultural Land Preservation Program in Greater Minnesota does not defer property taxes, so a payback does not apply.

<sup>b</sup> In the metropolitan area, the zoning density must be not more than 1 dwelling unit per 40 acres.

<sup>c</sup> Exceptions require a finding by the state that: (1) the preserve's expiration has begun, (2) the township is unable to provide normal governmental functions, or (3) the city would completely surround the preserve.

SOURCES: *Minnesota Statutes* 2007, 40A; 273.111; 273.119; and 473H.

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**Either local governments or landowners may initiate termination of an agricultural preserve by giving appropriate notice, but the preserve lasts for eight years after notice is filed.**

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**Enrollment in the agricultural land preservation programs peaked in the late 1990s.**

with nonagricultural land uses.<sup>30</sup> Annexation of lands in a preserve is prohibited, with the same exceptions as described earlier for the Metropolitan Agricultural Preserves Program. Public water, sewer, and drainage systems are also prohibited, and the land in agricultural preserves may not be assessed for building these types of projects nearby.<sup>31</sup> Finally, government agencies may not use eminent domain actions to acquire land in a preserve, without first following specific procedures involving reviews and hearings by the Environmental Quality Board.<sup>32</sup>

### **Eligibility and Termination**

The only statutory eligibility requirement for the Agricultural Land Preservation Program is that the owner has land in an area designated in a local government's plan for long-term agricultural use. There is no income or land size requirement.<sup>33</sup>

Terminating the agricultural preserve may be initiated when landowners notify counties of their intent or vice versa, but the expiration does not actually occur until at least eight years after official notice is given. If the county initiates the action to terminate the preserve, it must first amend its plans and zoning ordinances removing the designation for long-term agricultural uses, and the state's commissioner of agriculture must approve the amendments.<sup>34</sup>

### **Farmland Enrollment**

Landowner participation in the agricultural land preservation programs has slowly declined after reaching peak enrollment in the late 1990s. Enrollment quickly grew after land was first enrolled in the Metropolitan Agricultural Preserves Program in 1983, reaching a peak of 202,000 acres in 1997; since then it slowly declined to 182,000 acres in 2007, a decline of about 10 percent from the peak. Participation in Greater Minnesota's Agricultural Land Preservation Program also reached a peak in the late 1990s (138,000 acres), before declining to 133,000 acres in 2007, a decline of 3 percent.

Farmland enrollment in the Metropolitan Agricultural Preserves Program is generally low, as shown in Table 1.5, with about 25 percent of the region's agricultural land enrolled. Only Carver County enrolled more than 30 percent of

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<sup>30</sup> *Minnesota Statutes* 2007, 40A.12.

<sup>31</sup> *Minnesota Statutes* 2007, 40A.123. The law provides an exception allowing such public projects if the landowner elects to use them.

<sup>32</sup> *Minnesota Statutes* 2007, 40A.122, subd. 1-4.

<sup>33</sup> Individual counties may impose their own land size requirement. For instance, Wright County requires lots of at least 35 acres, with any exceptions to be approved by the county board.

<sup>34</sup> *Minnesota Statutes* 2007, 40A.11. According to subdivision 5 of this section, preserves may be terminated earlier than eight years but only in the event of a public emergency declared by the governor. As previously stated, local or state governments may use eminent domain to take land prior to the eight-year expiration of an agricultural preserve, but only after involving the Environmental Quality Board, which has authority to invoke a one-year delay.

**Table 1.5: Farmland Enrollment in the Agricultural Land Preservation Programs, 2007**

	Farmland Acres	Farmland Enrolled	
		Acres	Percentage of Farmland
<u>Metropolitan Agricultural Preserves</u>			
Anoka	57,068	1,816	3%
Carver	167,910	93,727	56
Dakota	207,985	59,803	29
Hennepin	65,426	10,496	16
Scott	129,206	7,185	6
Washington	<u>94,625</u>	<u>9,053</u>	10
Twin Cities metropolitan area total	722,495 <sup>a</sup>	182,080	25%
<u>Agricultural Land Preservation</u>			
Waseca	252,090	82,989	33%
Winona	314,799	41,062	13
Wright	<u>323,391</u>	<u>9,158</u>	3
3-county total	890,280	133,209	15%
Greater Minnesota total	28,765,718	133,209	0.5%
<u>Both Programs</u>			
Statewide total	29,488,213	315,289	1%

NOTE: Data are on properties assessed in 2007 for taxes to be paid in 2008.

<sup>a</sup> Includes Ramsey County.

SOURCES: Office of the Legislative Auditor, analysis of data from the Minnesota Department of Revenue's 2007 Spring Mini Abstract and U.S. Department of Agriculture, 2002 Census of Agriculture.

**In the Twin Cities area, 25 percent of farmland was enrolled in the Metropolitan Agricultural Preserves Program as of 2007.**

its farmland in the program. Enrollment ranged from 3 percent of farmland in Anoka County to 56 percent in Carver County. Enrollment in the Metropolitan Agricultural Preserves Program is lower than for the Green Acres Program for all participating counties except Carver County. Overall, 25 percent of metropolitan-area farmland was enrolled in the Agricultural Preserves Program in 2007, compared with 47 percent for the Green Acres Program.

Enrollment in Greater Minnesota's Agricultural Land Preservation Program was also low, ranging from 3 percent to a high of 33 percent of farmland in Waseca County, as shown in Table 1.5. Enrollment is especially low as a percentage of total farmland in Greater Minnesota, just 0.5 percent in 2007.

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**Statutes require Minnesota's Department of Agriculture to promote awareness of the need to preserve agricultural land.**

## Program Administration

Besides adopting plans and land-use ordinances required for the Agricultural Land Preservation Program in Greater Minnesota, counties review landowner applications for completeness and officially record the restrictive covenants.<sup>35</sup> The law also specifies duties for the Minnesota Department of Agriculture, although it does not assign the department broad oversight responsibilities. When the law was first passed in 1984, the department was directed to select up to seven counties for a pilot program, and it ultimately selected five pilot counties, two of which (Kandiyohi and Douglas) later dropped participation.

Since those early years, the department's role has focused on two other duties assigned by the law. One is promoting awareness of: the need for preserving agricultural land, physical and social factors that affect agricultural land uses, and approaches and technologies for preserving and conserving agricultural land.<sup>36</sup> Over the years, the department has broadened the scope of its awareness campaign to cover the mitigation of land-use conflicts between farming and residential land. It reasons that meeting the stated purposes of the law requires resolving conflicts, such as those over noise and odor, with nonfarm land uses.

The department's second statutory duty is to provide financial and technical assistance for agricultural land preservation.<sup>37</sup> According to the department, the only financial assistance available to this end was the original \$300,000 appropriated for the pilot counties and a \$65,000 appropriation enabling the department to hire one staff person for implementing the law. Regarding technical assistance for local governments, the department has developed written materials, such as a model ordinance for regulating feedlots, which was designed to help reduce the land-use conflicts between farms with animal agriculture and nearby residences.<sup>38</sup> Another example is a study comparing the public costs of preserving farmland versus the costs associated with subdividing and developing rural land.<sup>39</sup> The department remains active with workshops and other means of providing information on the land preservation program and preventing conflicts between adjacent rural and urban land uses.

## Conservation Accounts

Counties participating in the Agricultural Land Preservation Program must charge a \$5 fee on mortgage or deed registrations, as is done under the Metropolitan Agricultural Preserves Program. Statutory restrictions on the use of the revenues are the same for both programs. One difference is that if the

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<sup>35</sup> *Minnesota Statutes* 2007, 40A.10, subd. 2-3.

<sup>36</sup> *Minnesota Statutes* 2007, 40A.14, subd. 1.

<sup>37</sup> *Minnesota Statutes* 2007, 40A.15, subd. 1 and 5.

<sup>38</sup> Minnesota Department of Agriculture, *Planning for Agricultural Land Preservation in Minnesota: A Handbook for Planning Under Minnesota Statutes, Chapter 40A* and *Planning and Zoning for Animal Agriculture in Minnesota: A Handbook for Local Government* (St. Paul, June 1996). These publications were updated in 2006.

<sup>39</sup> Minnesota Department of Agriculture, *Cost of Public Services Study* (St. Paul, September 1999).

county-conservation account revenues are insufficient to reimburse the \$1.50 per acre tax credit, reimbursements will be made from the Minnesota Conservation Fund but not from the state’s General Fund.

**Green Acres and the two agricultural land preservation programs reduced property taxes on enrolled lands by about \$40 million in 2007.**

## AMOUNT OF PROPERTY TAX BENEFITS

As we discussed earlier in this chapter, both the Green Acres and the Metropolitan Agricultural Preserves programs provide significant property tax benefits to participating landowners, and the Minnesota Agriculture Land Preservation Program’s tax benefits are small in comparison. In this section, we examine the overall amount of property tax benefits provided by these programs and estimate the tax impact on other property owners who do not participate.

The Green Acres and the Metropolitan Agricultural Preserves programs increase property taxes for nonparticipants by reducing the community’s tax base, assuming spending stays constant. To the extent that local governments reduce their spending because the tax base is smaller, our estimates overstate the impact on property taxes of nonparticipants.

Overall, we estimate that these three programs reduced property taxes on enrolled land by about \$40 million in 2007, as Table 1.6 shows. However, we estimate

**Table 1.6: Amount of Property Tax Benefits Provided by the Green Acres and Agricultural Land Preservation Programs, 2007**

	Green Acres Program		Agricultural Land Preservation Programs <sup>a</sup>		Total	
	With Limited Market Value (millions)	Without Limited Market Value (millions)	With Limited Market Value (millions)	Without Limited Market Value (millions)	With Limited Market Value (millions)	Without Limited Market Value (millions)
Twin Cities seven-county metropolitan area	\$12.5	\$20.1	\$4.2 <sup>b</sup>	\$5.6 <sup>b</sup>	\$16.7	\$25.7
Four counties north of metropolitan area (Chisago, Isanti, Sherburne, and Wright)	11.4	17.4	0.01	0.01	11.4	\$17.5
Other 76 counties	<u>11.3</u>	<u>17.5</u>	<u>0.2</u>	<u>0.2</u>	<u>11.5</u>	<u>\$17.7</u>
Total	\$35.2	\$55.1	\$4.4	\$5.8	\$39.6	\$60.8

NOTES: Data are for taxes paid in 2007. The size of the benefits provided by the Green Acres and land preservation programs is reduced by the “limited market value” law, which limits annual increases in properties’ taxable values for agricultural, residential, seasonal recreational residential (cabins), and timberland property. We also show the impact without limited market value because the law is scheduled to expire for assessment year 2009.

<sup>a</sup> These columns combine data for the Metropolitan Agricultural Preserves and Greater Minnesota’s Agricultural Land Preservation programs. Only the former program lowers the taxable value of enrolled land, but each program provides property tax credits of about \$1.50 per acre. The property tax credits totaled \$0.5 million for the two preservation programs.

<sup>b</sup> Includes \$0.3 million in property tax credits.

SOURCES: Office of the Legislative Auditor, with assistance from the Minnesota House of Representatives Research Department, analysis of property tax data from the Department of Revenue and select counties.

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**The Green Acres Program accounts for most of the tax benefits because it enrolls much more farmland than the agricultural land preservation programs.**

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**In 2007, the Green Acres Program sheltered about \$10 billion in farmland market values, a 14-fold increase since 1993.**

that the programs' impact would have been \$61 million in 2007 were it not for the "limited market value" law, which limits annual increases in properties' taxable values for agricultural, residential, seasonal recreational residential (cabins), and timberland property. Examining the impact without the limited market value law is useful because, under current law, limited market values are scheduled to expire in assessment year 2009.<sup>40</sup>

The Green Acres Program provided most of these benefits largely because it enrolls much more farmland than the other programs, both in the Twin Cities area and in Greater Minnesota. Greater Minnesota's Agricultural Land Preservation Program provided only \$0.2 million in benefits because only three counties participate, and its \$1.50 per acre credit is small compared with the other two programs.

The tax benefits provided by these programs are more concentrated in the Twin Cities area than is farmland enrollment. The seven-county Twin Cities metropolitan area and the four counties on its northern border account for 30 percent of land enrolled in these programs but 71 percent of the overall benefits.

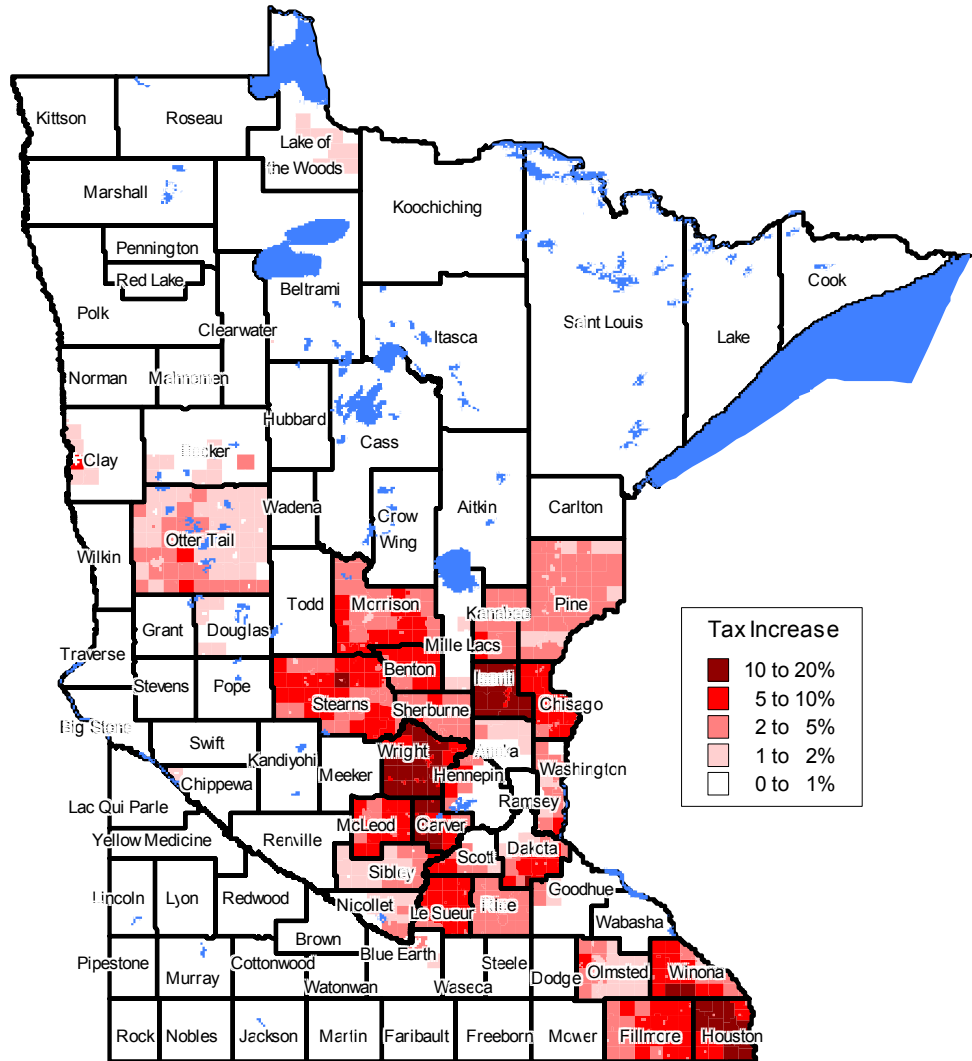
The tax impact of the Green Acres and the Metropolitan Agricultural Preserves programs on nonparticipating property varies widely among cities and townships across the state. To examine these tax impacts, we used our estimates without limited market values. For the townships with the largest tax impacts, we estimate that the programs would have increased property taxes in 2007 by 32 percent for agricultural homesteaded land owned by nonparticipants, 19 percent for residential homesteads, and 10 percent for commercial-industrial property. However, the two programs affect property taxes of most landowners by much smaller amounts. To illustrate how the tax impact on other property types varies across the state, we looked at what the tax impact would have been on residential homesteads, the property class with the highest total valuation in Minnesota. In about half of the 1,500 cities and towns in participating counties, the tax impact on residential homestead property would have increased by less than 1 percent. Among the remaining cities and towns, we estimate that the two programs would have increased residential homestead property taxes by at least 5 percent in 236 cities and towns, including 50 where the increase would have exceeded 10 percent. Areas with large tax impacts are in the farm areas near the Twin Cities, around St. Cloud, and in the southeast corner of the state, as shown in Figure 1.5.

To examine how the benefits provided by the Green Acres Program have changed over time, we looked at trends in the amount of market value sheltered from property taxes by this program. Generally, the more farmland value that is sheltered from property taxes, the greater is the property tax benefit to landowners enrolled in the program. The amount of farm market value sheltered from property taxes by the Green Acres Program increased from \$0.7 billion in

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<sup>40</sup> There are two other reasons to examine the tax impact without limited market values. First, even if the limited market value law is extended by the Legislature, its impact may decline if increases in agricultural land prices taper off from the rapid increases they have experienced for several years. Second, due to data limitations, the estimates without limited market values are more accurate and reliable than those with limited market value.

**Figure 1.5: Estimated Impact of the Green Acres and Metropolitan Agricultural Preserves Programs on Residential Homestead Property Taxes**



NOTES: This figure shows our estimates of how much the two programs would have increased property taxes, on average, in 2007 for residential homestead properties, if the “limited market value” law were not in effect. The limited market value law, which limits annual increases in property values used to determine property taxes for agricultural, residential, seasonal recreational residential (cabins), and timber property, is scheduled to expire for assessment year 2009.

SOURCE: Office of the Legislative Auditor, with assistance from the Minnesota House of Representatives Research Department, analysis of Department of Revenue’s property tax data.

1993 to \$10.1 billion in 2007, an increase that was much faster than the rate of inflation. One reason for this 14-fold increase was the rapidly rising farmland market values, particularly in the Twin Cities metropolitan area and nearby counties. From 1993 to 2007, farmland property values increased by over 500

percent in the seven-county metropolitan area and by over 700 percent in the four fast-growing counties bordering the metropolitan area to the north.<sup>41</sup>

Rising farmland values were also a factor in certain Greater Minnesota counties. For example, farmland prices for the three counties in Minnesota's southeast corner (Houston, Winona, and Fillmore Counties), increased by 371 to 484 percent during this period largely because of especially large price increases for nontillable farmland.

## OTHER MECHANISMS TO PRESERVE AGRICULTURAL LAND

Although the Metropolitan Agricultural Preserves Program and the Agricultural Land Preservation Program in Greater Minnesota are the two official programs in the state for preserving farmland, other practices share somewhat similar aims. Most counties and many municipalities develop comprehensive plans and adopt zoning ordinances. Those that zone agricultural districts and maintain buffers between farms and nonfarm residences may help preserve and sustain farmland.

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**Local governments' land-use planning can help protect agricultural lands.**

Land-use regulations may not be long lasting. Zoning regulations apply to all landowners in a jurisdiction, however, they are subject to changes, and if a jurisdiction's board of adjustment or local officials grant numerous variances to their land-use ordinances, land preservation may be of short duration.

While local planning and zoning cannot guarantee long-term land preservation, land easements are generally longer term and many are perpetual. Easements are restrictions voluntarily placed on land to protect its natural, scenic, historical, cultural, or architectural values. They are recorded on a property's deed and prevent developing the land but may also restrict using it for crop production or pasture. In contrast to zoning regulations, easements are typically targeted to only certain lands, such as forest or lands adjacent to waterways.

In Minnesota, statutes provide for conservation easements.<sup>42</sup> The state has also appropriated dollars to conservation easement programs, most notably the Reinvest in Minnesota (RIM) Program and Conservation Reserve Enhancement Program (CREP). Other easement programs also exist, each with its own requirements on eligibility, payments, and duration, but most are not designed to preserve land for farming uses.

In addition, Dakota and Washington counties have begun programs that use public dollars to purchase development rights for key lands. One part of Dakota

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<sup>41</sup> These increases in value were much larger than the increases in "agricultural-use value" used to determine taxes for land in the Green Acres Program. County assessors typically look for farmland sales that are not influenced by nonagricultural factors to determine the land's agricultural value. Market value changes in five southwestern Minnesota counties, an area generally free of nonagricultural influences, suggest that the agricultural value of farmland increased by about 175 percent between 1993 and 2007.

<sup>42</sup> *Minnesota Statutes* 2007, 84C.

County’s Farmland and Natural Area Program, which has been funded with a voter-approved sale of \$20 million in bonds, purchases agricultural easements to allow farming activities to continue permanently. As of June 2007, the county had acquired 13 permanent agricultural conservation easements representing 1,348 acres.<sup>43</sup> Washington County’s new program for purchasing development rights complements its efforts, which started in 2000, to keep lands in their natural condition. A referendum approved in 2006 gives the county a long-term funding source, but its emphasis is on protecting bodies of water and purchasing parkland and open space, not preserving agricultural land per se.

## PROGRAMS IN OTHER STATES

**Each of the 50 U.S. states has some type of farmland protection program.**

Each of the 50 states has some type of farmland protection program, according to the U.S. Department of Agriculture.<sup>44</sup> Some of the programs lower the amount of property taxes paid by the agricultural landowner. Others regulate how the land is controlled or how it may be used.

Eligibility criteria, application procedures, and tenure of the protection vary by program and by state. In some cases, the benefits extend to all agricultural property, and the individual landowner is not required to apply. In others, landowners not only must apply and meet explicit eligibility standards, but also must renew their applications annually. Some programs protect farmland for a year, while others are designed as permanent protection.

Programs to reduce the tax burden for agricultural land include differential assessment programs, of which Minnesota’s Green Acres Program is one example in that it sets taxable values at a low, agricultural value instead of a higher value based on the “highest and best” use (the potential development use) of the land.<sup>45</sup> All states but one have some form of differential assessment for farmland. A second program is referred to as “circuit breaker” tax relief, which provides property tax reductions to farmers based on their income levels. Third are programs called agricultural districting, in which participants agree to maintain the land agriculturally in exchange for limits on taxes or special assessments for sewer, water, and other public services. This type involves both tax reductions and land-use controls and includes Minnesota’s agricultural land preservation programs. We looked more in depth at a sample of states, and Table 1.7 shows some of the features of the programs we examined.

<sup>43</sup> Dakota County, *Farmland and Natural Areas Program: Program Summary and Overview*, [www.co.dakota.mn.us/CountyGovernment/Projects/FarmlandNaturalArea/Program+Summary+and+Overview.htm](http://www.co.dakota.mn.us/CountyGovernment/Projects/FarmlandNaturalArea/Program+Summary+and+Overview.htm), accessed November 26, 2007.

<sup>44</sup> Cynthia Nickerson and Charles Barnard, “Farmland Protection Programs,” in *Agricultural Resources and Environmental Indicators, 2006 Edition* (Washington, D.C.: U.S. Department of Agriculture) July 21, 2006, [www.ers.usda.gov/publications/arei/eib16/](http://www.ers.usda.gov/publications/arei/eib16/), accessed April 26, 2007.

<sup>45</sup> In addition, for all land classified as agricultural, Minnesota’s classification system assigns a low class rate, and a “limited market value” law limits the year-to-year increases in agricultural values.

**Table 1.7: Features of Agricultural Land Protection Programs in Select States, 2007**

Program	Type of Benefit	Owner Must Apply	Minimum Eligibility	Penalty for Removing Land from Program
Iowa Land Assessment	All agricultural land receives preferential assessment	No	None	None
Iowa Agricultural Land Tax Credit	Property tax credit	No	At least 10 acres	None
Iowa Family Farm Tax Credit	Property tax credit	Yes	At least 10 acres with at least 50% in crops or livestock, and owner is actively engaged in farming	None
Michigan	Income tax credit for property taxes exceeding 3.5 percent of household income; exemption from special assessments	Yes	At least 40 acres with at least 51 percent used agriculturally; or at least 5 acres with at least \$200 per acre annual income <sup>a</sup>	Repay seven years of tax credits plus 6 percent interest
Minnesota Green Acres Program	Eligible land receives preferential assessment and tax deferral	Yes	At least 10 acres, classified as agricultural, meeting ownership and minimum income thresholds	Repay three years of deferred taxes and all deferred special assessments
Minnesota Metropolitan Agricultural Preserves Program	Eligible land receives preferential assessment and tax deferral; \$1.50 per acre tax credit; and protections from ordinances restricting farm operations	Yes	At least 40 acres, located in an area designated for long-term agricultural use with no more than 1 dwelling allowed per 40 acres	None, but must wait eight years before land-use restrictions expire
Minnesota Agricultural Land Preservation Program	Eligible land receives \$1.50 per acre tax credit and protections from ordinances restricting farm operations	Yes	Located in an area designated for long-term agricultural use	None, but must wait eight years before land-use restrictions expire
North Dakota	All agricultural land receives preferential assessment	No <sup>b</sup>	None	None
South Dakota	Qualifying agricultural land receives preferential assessment	Yes	Must meet 2 of 3 criteria: At least 20 acres; produce at least 1/3 of yearly family gross income; or principal use is devoted to crops or livestock as specified in law <sup>c</sup>	None
Wisconsin Farm Preservation Tax Credit	Property tax credit up to \$4,200 based on income of owner; requires a restrictive covenant on the land	Yes	At least 35 acres, earning at least \$6,000 in profits the preceding year, and used agriculturally at least 12 months in the last 3 years <sup>d</sup>	Repay ten years of tax credits plus up to 9.3 percent interest
Wisconsin Land Assessment	All agricultural land receives preferential assessment and tax deferral	No	None	Repay a certain percentage based on the number of acres and difference between the high and low values

NOTE: Every state has some type of farmland protection program, and we selected a small sample for this table.

<sup>a</sup> Also eligible are specialty farms where owners have gross annual incomes of at least \$2,000.

<sup>b</sup> Owners apply to have land classified as "inundated" when it is unsuitable for crops or grazing animals for at least two growing seasons.

<sup>c</sup> If less than 20 acres, a portion of 80 contiguous acres under the same ownership may also be eligible.

<sup>d</sup> Land must be zoned for exclusive agricultural use or the county must have a certified agricultural preservation plan.

SOURCE: Office of the Legislative Auditor, analysis of other states' laws on farmland programs.

Programs designed to regulate how agricultural land is controlled include agricultural-land zoning, which sets minimum parcel sizes and may prevent the development of conflicting land uses. Another program is a right-to-farm law that offers protections to farmers. For example, such a law might prohibit governmental units from passing ordinances that impinge on agricultural activities, or it might restrict lawsuits filed by nonfarming neighbors who object to noises or smells from normal farm activities. A Minnesota example is a law requiring the Minnesota Department of Agriculture to review state agency actions, such as a road building project, that could adversely affect agricultural lands and recommend alternatives to reduce adverse effects.<sup>46</sup> Third are the “purchase of development rights” programs, similar to those described above in Dakota and Washington counties. They often rely on the purchase of conservation easements to protect the land from development. Finally, there are “transfer of development right” programs, which allow landowners to forego developing land and instead sell their development rights to a landowner elsewhere who can use those rights to develop at higher densities than otherwise allowed.

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<sup>46</sup> *Minnesota Statutes* 2007, chapters 17.81, 17.82, and 17.84.

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# “Green Acres” Program

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## SUMMARY

*The Green Acres Program effectively equalizes taxes for many agricultural landowners, but not everyone who may qualify for the program receives the benefits because the program is not yet available as widely as it could be, and some landowners fail to apply or may not be aware the program exists. While statutes do not make it clear that land preservation is a goal of the Green Acres Program, the program’s effect on preserving land for agricultural uses is short term and tenuous because it requires no long-term commitment to the land; furthermore, the tax benefit, and the penalty for removing land from the program, can be small relative to the value of the land on the open market. Some who receive Green Acres benefits are not farmers or are marginally eligible for the program, and we recommend that the Legislature clarify who and what types of land should receive the benefits. Certain program eligibility criteria are outdated and difficult to implement, and the Legislature should eliminate the income criterion and replace it with a more explicit definition of “primarily” agricultural land. The Department of Revenue’s steps to make the program more consistent statewide will help but can be improved.*

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The Green Acres Program reduces part of the tax burden for certain agricultural property. It is open to all qualifying landowners, but the program has not been available in every county, as Chapter 1 described. In this chapter we explore equity questions connected to the Green Acres Program and detail how well the program has worked. More specifically, we analyze the following research questions:

- **How effective is the Green Acres Program?**
- **Who benefits from the Green Acres Program?**
- **How appropriate are the eligibility criteria for Green Acres?**
- **How consistently have counties implemented and administered the Green Acres Program?**

To answer these questions, we studied property tax data from the Department of Revenue, and we analyzed trend data on acreage enrolled in Green Acres and values of agricultural land. Using the Department of Revenue’s data, we identified counties that had no land enrolled in the Green Acres Program as of 2007 and surveyed the county assessors there. From among the remaining counties, we selected a large sample and conducted telephone interviews with county assessors. We visited six counties to review landowners’ applications for the program, and we spoke with a small number of landowners who had been denied enrollment. We also interviewed Department of Revenue staff, an

agricultural land economist knowledgeable about the program, and representatives of Farm Service Agencies in eight counties around Minnesota.

## EFFECTIVENESS OF GREEN ACRES

**Statutes for the Green Acres Program do not explicitly say that the program’s objective is to preserve agricultural land.**

Minnesota statutes state that the Green Acres Program is intended to “equalize tax burdens upon agricultural property.”<sup>1</sup> Although the law does not specifically address the objective of preserving agricultural land, some believe this to be one of the program’s purposes. The Department of Revenue’s 2006 report on the Green Acres Program acknowledged that the program’s intent is unclear and should be clarified.<sup>2</sup> Although the program’s goals are not fully explicit, we looked at both program goals and found that:

- **The Green Acres Program effectively equalizes taxes for many agricultural landowners but does not help all who may be eligible. The program’s effect on preserving farmland is short term and tenuous.**

The following sections describe how well the program equalizes tax burdens and preserves agricultural land.

### Tax Equalization

When the Green Acres law was enacted in the late 1960s, urban development had driven the market value of agricultural land in the Twin Cities area beyond the value of rural farmland. Because property taxes were based on properties’ market values, farmers in the Twin Cities area paid much higher property taxes per acre than in the rest of the state. Over time, urban development, recreation, and other nonagricultural factors increased the value of farmland in other regions of the state.

To assess how well the Green Acres Program equalizes property tax burdens, we examined to what extent the program moves values used to determine property taxes closer to target values based on agricultural use. These target values, which we calculated from the Department of Revenue’s county-by-county estimates of the average value of tillable land for agricultural uses, are highest in the state’s prime agricultural areas in southern Minnesota. Because the agricultural value of nontillable farmland often differs from that of tillable land, these target values are rough guides for assessing how well the program equalizes valuation of agricultural property. For example, target values may be high for counties with a lot of nontillable land that is not useful for agriculture, such as counties in Minnesota’s southeast corner. These target values are generally accepted by county assessors as being reasonable for tillable land, although there are

<sup>1</sup> *Minnesota Statutes* 2007, 273.111, subd. 2.

<sup>2</sup> Minnesota Department of Revenue, *Assessment and Classification Practices Report: Agricultural Land Including Land Enrolled in the Green Acres Program* (St. Paul, 2006), 9. The report pointed to a Supreme Court case that said the program’s tax relief is to promote continued use of the land as agricultural property.

significant differences over what should be the target values for nontillable land. Nevertheless, we consider them appropriate to give a big-picture analysis of the program’s effectiveness.

In analyzing how well the program equalizes tax burdens we found that:

- **The Green Acres Program substantially reduces the variation in taxable value between farmland with value added by nonagricultural factors and that without.**

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**For land in the Twin Cities metropolitan area, the Green Acres Program substantially reduced taxable valuations of enrolled agricultural land in 2007—from an average \$13,800 per acre down to \$3,600 per acre.**

The assessor’s average estimated market value for farmland is the highest in the Twin Cities seven-county metropolitan area, followed by the four fast-growing counties bordering the metropolitan area to the north (Chisago, Isanti, Sherburne, and Wright). As Table 2.1 shows, the Green Acres Program reduces the value of farmland enrolled in Green Acres in these counties to levels much closer to the target values. For enrolled farmland in the Twin Cities metropolitan area in 2007, the Green Acres Program substituted an average agricultural-use value of \$3,600 per acre for the average estimated market value of \$13,800. While this agricultural-use value is somewhat higher than the target value of \$2,500, Green Acres eliminated most of the difference in valuation due to urban development. In the four fast-growing counties on the metropolitan area’s northern border, the Green Acres Program substituted average values of \$1,900 (very close to the target value) for \$6,500 per acre.<sup>3</sup> As Table 2.1 shows, the Green Acres Program also substituted lower tax valuations in other regions where estimated market values significantly exceeded the target values.

The other factor that indicates how well the program equalizes property tax burdens on farmland is the percentage of farmland that is enrolled in the program, particularly in counties with widespread nonagricultural influences on farmland market values.<sup>4</sup> In 2007, 73 percent of the farmland in the seven-county metropolitan area was enrolled in either the Green Acres or Metropolitan Agricultural Preserves program, which we combine here because they offer essentially the same reduction in value, and metropolitan enrollees participate in only one of the two programs. For the four counties north of the metropolitan area, 77 percent of farmland is enrolled in the Green Acres Program.<sup>5</sup> Considering that some landowners are not eligible for these programs, the two programs appear to effectively enroll most eligible farmers in the two areas with the highest estimated market values. However, in some areas which appear to have considerable nonagricultural influences on farmland value, enrollment in the Green Acres Program is low or moderate, including three of the five counties

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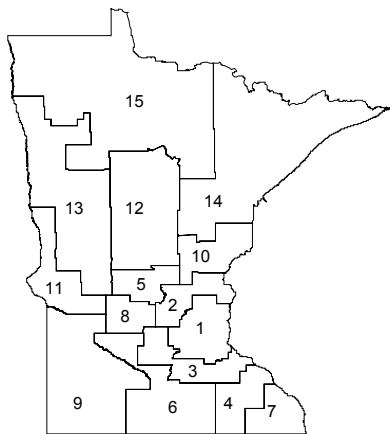
<sup>3</sup> Note that the target value for these four counties is lower than the target for all of the regions in southern Minnesota because the four have poorer soil than farmland in southern Minnesota.

<sup>4</sup> It is not possible to precisely determine how much farmland should be enrolled in the program because, as we described in Chapter 1, eligibility depends on the ownership situation as well as the land. Also, in some counties, nonagricultural influences have driven up the price of farmland in only certain parts of the county.

<sup>5</sup> In Greater Minnesota, we do not combine enrollment in agricultural preservation programs with the Green Acres Program because only the Green Acres Program provides significant property tax reductions there. However, some land in Wright and Winona counties is enrolled in both programs.

**Table 2.1: Impact of the Green Acres Program on Farmland Valuations, 2007**

Region	All Farmland		Land in Green Acres		
	Estimated Market Value (per acre)	Target Value <sup>a</sup> (per acre)	Estimated Market Value (per acre)	Agricultural-Use Value (per acre)	Percentage of Farmland
1. Twin Cities metro area	\$10,453	\$2,546	\$13,799	\$3,585	47% <sup>b</sup>
2. North of metro	6,500	2,014	6,474	1,915	77
3. South of metro	3,935	2,862	4,213	2,854	36
4. Southeast	3,238	2,628	7,146	2,914	5
5. St. Cloud area	3,053	1,617	3,005	1,423	71
6. South central	2,983	2,934	11,534	3,287	0.3
7. Southeast corner	2,625	2,456	2,627	1,787	63
8. Near west	2,485	2,389	3,288	2,121	1
9. Southwest	2,324	2,397	3,859	2,349	0.2
10. Near northeast	1,991	1,434	1,959	1,070	31
11. West central	1,816	1,794	2,448	1,235	0.1
12. North central	1,761	1,095	2,143	1,083	14
13. Northwest	1,434	1,260	3,274	1,664	5
14. Northeast	1,228	881	N/A	N/A	0
15. Far north	658	533	1,876	809	0.3



NOTES: We grouped counties into the regions shown based on geographic proximity and the Department of Revenue's estimated agricultural-use value of their tillable land. The number of the region corresponds to the areas numbered on the adjoining map. This table does not include the effects of the limited market value law, which limits the annual increases in property values used to determine property taxes for agricultural, residential, residential seasonal recreational (cabins), and timber property. Valuations estimated in 2007 are used to calculate taxes paid in 2008.

<sup>a</sup> The target values are rough approximations of the average agricultural-use value for farmland in 2007. To estimate them, we used the Department of Revenue's ratio of each county's agricultural-use value for tillable land to that from five southwestern counties considered to have had few nonagricultural factors influencing farmland prices. The target values do not include both tillable and nontillable land because good data on nontillable land are not available. Because agricultural-use values often differ between nontillable and tillable land, however, a region's actual target value may differ from the values shown, especially in regions, such as in the southeast corner, where nontillable land is a considerably larger percentage of farmland than in southwestern Minnesota.

<sup>b</sup> Enrollment for the Twin Cities area would be 73 percent if enrollment in the Metropolitan Agricultural Preserves Program, which offers essentially the same tax benefit as Green Acres, were added.

SOURCE: Office of Legislative Auditor, analysis of data from the Department of Revenue's 2007 Spring Mini Abstract and Department of Revenue, *Green Acres Bulletin #1* (St. Paul, October 2007).

on the southern border of the metropolitan area and some counties in southeast Minnesota. This reduces the degree to which the program equalizes property tax burdens, which is addressed below.

### Limited Tax Equalization

Although the Green Acres Program equalizes tax burdens, we found that:

- **Not everyone who may qualify for the Green Acres Program receives benefits because (1) the program has not been implemented everywhere it could be, (2) some otherwise eligible landowners either fail to apply or choose not to participate, and (3) some landowners may not be aware of the program.**

First, the Green Acres Program is available in only those counties where the county assessor has implemented the program. By definition, the program may operate only where nonagricultural factors influence the value of agricultural land. As of mid-2007, 35 counties had not implemented the Green Acres Program.<sup>6</sup> In 16 of these counties, assessors reported that nonagricultural factors had increased the values of certain agricultural lands there. Half of those county assessors, though, also reported that they had not implemented the program because differences between the low (Green Acres agricultural-use) values and high (estimated market) values were slight, or the number of land sales with nonagricultural influences was small. For the remaining eight counties where assessors reported that nonagricultural factors had increased agricultural land values, had the Green Acres Program been implemented, qualifying landowners would pay lower taxes than they will in 2008.

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**As of 2007, about 35 counties had not implemented the Green Acres Program, even though some of them reported having land that likely would have qualified.**

A second reason that some potentially eligible landowners do not receive Green Acres benefits is that they fail to apply or choose not to participate. About half of the assessors in the 48 Green Acres counties that we interviewed reported that some landowners who are likely eligible have not enrolled, although in many counties assessors believed this did not happen often. Most frequently, assessors believed that landowners who do not enroll simply decide against applying, have a general mistrust of government programs, or are thinking of soon selling their land.

Third, not all landowners may be aware of the Green Acres Program, in part because some counties have not actively informed landowners about it. Among the 48 Green Acres counties we interviewed, county assessors in five counties with relatively low enrolled acreages (less than 13 percent of deeded farm acres) reported providing Green Acres information only when landowners request it. Furthermore, none of the eight Farm Services Agency directors we interviewed believed the Green Acres Program was widely known within their counties.<sup>7</sup> Five of the eight directors believed that farmers were “somewhat” aware of the program, and the remaining three thought that farmers were generally unaware of it. Four directors volunteered they would find it useful to distribute to local farmers a brochure or information packet about the program.

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<sup>6</sup> In 51 counties, at least one parcel was enrolled in 2007 for taxes to be paid in 2008. In addition, Cass County had no land enrolled in the Green Acres Program, but the county assessor said the program is available and, if any land qualified, it would be enrolled.

<sup>7</sup> Part of the U.S. Department of Agriculture, the Farm Services Agency (FSA) has local offices in most Minnesota counties and daily interactions with farmers. Although county FSA directors do not work directly with the Green Acres Program, directors we interviewed knew of the program, and many had received farmers’ requests for verification of farm operations to qualify for it.

## Farmland Preservation

Part of the rationale for the Green Acres Program is that reduced property taxes allow farmers to continue farming. Especially for farmers with marginal incomes, the tax benefits may improve cash flow to the point that they can continue to farm. But the Green Acres Program is not targeted to lower-income farmers, and data are not available on how many farmers would no longer be able to keep their land in agricultural production if their taxes were not deferred. As stated earlier, statutes do not specifically list farmland preservation as a program goal, but we found that:

- **The Green Acres Program does not effectively preserve farmland because it does not require a long-term commitment, its benefits are small in comparison with the financial gain of selling the land, and it is not targeted to high-quality farmland.**

If preservation is one of the Green Acres Program’s goals, the program would have to change to more effectively achieve preservation. The following section describes why the program’s effectiveness in preserving land is limited.

First, the program neither requires a long-term commitment to the land nor is restricted to regions zoned for long-term agricultural uses. Although the Green Acres Program requires that land be “primarily devoted to agricultural use,” it does not prevent owners from changing uses or dividing or selling the land at any time.

Second, the amount of the tax benefit can be small relative to the increased value of the land, which minimizes the program’s influence on decisions to keep land in agricultural production. As described in Chapter 1, the amount of farm market value sheltered by the Green Acres Program grew far faster than inflation over the last 14 years, in large part because of rapidly rising farmland market values. For example, the market value of an 80-acre farm in the four fast-growing counties north of the metropolitan area has gone from an average \$62,000 to \$520,000 from 1993 through 2007. The average tax benefit for such farms enrolled in the Green Acres Program was about \$1,350 for taxes paid in 2007.

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**The financial benefits of selling land enrolled in the Green Acres Program typically far outweigh the penalty for leaving the program.**

Furthermore, the potential financial gain from selling Green Acres property can be much larger than the amount of property taxes the program reduces, even when the current owners are required to pay back three years of deferred taxes. For instance, the owner of a 76-acre Green Acres parcel in Dakota County would have owed \$905 for three years of deferred taxes had he sold the land in 2007. The payback would be equivalent to just 0.3 percent of the \$305,000 net gain, assuming the owner had bought the land 14 years earlier and the property had increased in value at the same rate as the average farmland value in the county. Even if the owner owned the land since just 2002, the three-year payback would amount to less than a half percent of the sales profit, assuming the rise in value was equivalent to the county’s average farmland values. In a second example of 33 acres, the payback would represent 2.5 percent of the net gain if the parcel was owned for 14 years or nearly 4 percent if owned since 2002 (assuming the parcel’s values increased at the county’s average rates over those periods). In

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**The Green Acres Program is not targeted to land at risk of being developed.**

fast-growing areas, the payback amounts to a very small financial incentive for retaining the property as agricultural.

Finally, the Green Acres Program’s effect on preserving farmland is tenuous because the program is not targeted to land that is necessarily important to preserve. The program is available for any type of farmland, regardless of quality, and affects nonproductive land with poor soils as much or more as it does prime farmland. Nor is the program targeted to land that is free of nearby land-use conflicts or at risk of soon being developed. The Green Acres Program can be found in areas, such as southern and southwestern Scott County, that have seen rising land prices but are unlikely to be developed for years or perhaps decades. Landowners there will continue to receive the tax advantages each year until development approaches, at which time the owners can sell at any point.

Because the Green Acres Program’s effect on farmland preservation is short term and tenuous, the program would have to significantly change to have a lasting impact. Changes such as requiring a longer-term commitment to the land or targeting benefits to high-quality land at risk of development would likely only make small improvements to land preservation. To achieve long-term land preservation, alternate programs would likely be needed.

## **BENEFICIARIES OF THE PROGRAM**

Equity questions arise when some people receive Green Acres Program benefits while others do not and when certain land is eligible but nearby land with similar characteristics is not. Growth in the value of Green Acres Program benefits has given such questions more importance today. We found that:

- **It is unclear whether the Green Acres Program’s goals include benefiting certain landowners and types of land that receive benefits.**

In the following sections, we describe questionable outcomes of the law’s current eligibility requirements and show how the program’s benefits make questioning these outcomes increasingly pertinent.

### **Who Benefits**

It is reasonable to address who benefits from the program because other property owners pay more in taxes to make up for the tax relief that program participants receive. We found that:

- **Beneficiaries include participants who are not farmers and certain properties for which it is unclear that agriculture is the primary use.**

County assessors are required to determine whether applicants meet the program’s statutory eligibility criteria, and they have cases that are minimally eligible. In 23 of the 48 Green Acres counties in our sample, assessors told us about certain landowners, such as those who are not farmers, who meet the law’s legal requirements but may not conform to the law’s goals. Table 2.2 lists the various cases. Nine of the 23 county assessors said the borderline cases were

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## Table 2.2: Questionable Outcomes of Green Acres Program Eligibility Requirements

Landowners who:

- Are not farmers
- Buy land without homesteading it, hold it for more than seven years, and then develop it<sup>a</sup>
- Own small parcels (roughly 10 to 20 acres) used for their residences and hobby farms
- Own parcels with small proportions of productive agricultural land
- Own primarily wooded acres for hunting or other recreational purposes while renting a small proportion of land to grow hay or graze livestock
- Have very high incomes in addition to their land wealth
- Enroll land in a conservation easement program that pays the owner for discontinuing agricultural uses
- Submit dubious income documentation that assessors have no means to verify

<sup>a</sup> *Minnesota Statutes* 2007, 273.111, subd. 3(a)(2), requires someone who does not live on the land to possess it for seven years prior to applying for Green Acres benefits. This type of owner would have to own the land for more than 10 years to receive a benefit greater than the amount required to be paid back.

SOURCE: Office of the Legislative Auditor, analysis of data from interviewing county assessors, July and August 2007.

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common in their counties, and one of those said there were likely hundreds of such parcels in his county, but we do not have a precise count of the cases statewide.

Questions about who is receiving the Green Acres benefits are especially important because of the growth in the value of the benefits between the early 1990s and today. As we showed in Chapter 1, the amount of farm market value sheltered from property taxes by the Green Acres Program increased from \$0.7 billion in 1993 to \$10.1 billion in 2007.

Four common types of cases that are legal but raise questions involve: investors or others who are not farmers, parcels with small proportions of productive land, land with added values due to aesthetics and recreational demand, and small-acreage farms. First, assessors in counties near the metropolitan area described land investors who have owned property for more than seven years and rent it out for others to farm until they sell the land for development. For example, there are several such parcels in Washington and Wright Counties ranging in value from \$300,000 to over \$5,000,000 that are owned by land developers or others outside farming who pay one-tenth or less of what their taxes would be without the Green Acres Program. For a 38-acre parcel valued at \$2.7 million, the Green Acres Program reduced the property taxes from \$12,928 to \$570. Similarly, for a 26-acre parcel valued at \$816,000, Green Acres reduced the property taxes from \$3,378 to \$340. While owners clearly benefit, some farmers renting the land

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**Questions about who and what types of land receive Green Acres benefits are important because of the growth in program benefits over time.**

argue that they also receive a benefit if the owners lower land-rental prices more than they otherwise would.

A second type of case that raises questions involves landowners who benefit from the Green Acres Program even though most of their acreage is not in agricultural production. The law states that qualifying land must be “primarily devoted to agricultural uses,” but half of the 48 county assessors in our sample reported difficulties determining whether certain properties meet this definition. For instance, a parcel with 10 acres of land in a conservation program that pays the owner to leave the land fallow is eligible for the Green Acres Program. This is because the law on agricultural classification includes land that is at least 10 contiguous acres and has been enrolled in certain conservation programs.<sup>8</sup> As another example, assessors described cases of 80-acre homesteaded parcels with 10 tillable and 70 wooded acres. Whether such a parcel is primarily agricultural is at question.

For many parcels, the nontillable land is an inseparable part of the farm, making its eligibility reasonable. But there are also parcels where most of the land is nontillable, and the nontillable portion is not productive—not used for crops or livestock grazing—and could be separated from the productive portion, although data are not available to calculate the amount of such land. Giving preferential treatment to such a parcel when similar land that is not attached to a farm does not receive any tax break is a questionable use of public dollars.

The rapidly increasing demand for nontillable farmland has made it a much larger factor in the Green Acres Program than when the program was first established. In certain counties, nontillable farmland now sells for more than tillable farmland, even if it has little agricultural value, because of its value for hunting and other recreation or as a home in the country. For example, in Houston County, the market value of nontillable land has increased from \$117 per acre in 1993 (one-sixth the value of tillable land at that time) to \$2,900 per acre in 2007 (nearly 30 percent higher than the value of tillable land). Statewide, nontillable land represents 38 percent of the farmland enrolled in Green Acres, although data are not available on what proportion of that is nonproductive land. Nontillable acres represent more than half of the land enrolled in the Green Acres Program for 11 counties, including Morrison, Kanabec, Mille Lacs, Pine, Crow Wing, and Todd counties.<sup>9</sup>

A third type of questionable case involves properties that have increased in value due to their desirability for hunting near wooded acreages or other aesthetic values. Some assessors have questioned whether the Green Acres Program’s objective is to lower taxable values on land that has increased in value due to recreational demands instead of development pressures. They are concerned that the program could shift considerable tax burdens onto nonparticipants because

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**Agricultural land that is too rocky, steep, or wet to be tilled can still qualify for Green Acres benefits.**

<sup>8</sup> *Minnesota Statutes* 2007, 273.13, subd. 23(c).

<sup>9</sup> For example, in Morrison County, 19 percent of the land enrolled in the Green Acres Program in 2005 was pasture, 18 percent was wasteland, and 14 percent was woodland (which may or may not be productive farmland).

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**Some county assessors fear that expanding the Green Acres Program would involve so many land parcels that they would have to hire additional staff to administer it.**

tax reductions would accrue to many agricultural parcels that provide habitat as hunting grounds. Beyond that, they fear that expanding the program to cover the numerous parcels that could possibly qualify would be an administrative burden that may require additional staff, a proposition their counties disfavor.

Fourth, small farms (10 to 20 acres or so) can also pose difficulties when assessors determine whether a property is “primarily devoted to agricultural use.” Assessors have to decide whether a site is a large residential property or, instead, is being farmed sufficiently to reflect a primarily agricultural use. Only the latter may become eligible. One example is of homeowners living on lakeshore with an additional 11 acres used to raise hay or grasses. While most assessors in the 48 counties we sampled reported that small farms are uncommon in their counties, 12 said that small farms are common and that the small farms are often enrolled in the Green Acres Program.

In addition, the value sheltered from taxation by the program is “invisible” and operates beyond the scrutiny of local government budgets. Once the Green Acres Program is in place, its subsidy to landowners is automatic and not debatable (unlike, for instance, a spending item in a county’s budget), yet it shifts tax burdens among taxpayers.

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## RECOMMENDATION

***The Legislature should clarify in statute who and what types of land should benefit from the Green Acres Program.***

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In light of the program’s increased benefits over time, and because agricultural lands have increased in value due to recreational and other factors in addition to urban development, the Legislature should reassess whether all lands now eligible for the benefits should continue to be so. As written, the law does not now limit participation to just those who are farmers, own parcels with a large share of productive land, or farm large acreages. Nor is the program limited to just the Twin Cities metropolitan area (Greater Minnesota counties have participated from the beginning). The law requires assessors to avoid considering any added values from nonagricultural factors—it does not specify whether they are to result from development pressures, recreational demands, or any other factor forcing up farmland values. Determining who and what types of land should benefit is a policy decision appropriate for the Legislature.

In setting parameters for eligibility determinations, the Legislature should focus on the cases that now qualify marginally, such as small farms, land with small proportions of agriculturally productive land, land owned by people who are not farmers, or land that increased in value due to recreational demands. The determinations could range from restrictive, where only a core group qualifies, to more inclusive, where anyone within a general group qualifies. For example, regarding small-acreage farms, a more restrictive determination would deny the agricultural classification (and, thus, Green Acres benefits) to any parcel under a threshold number of acres—currently 10 acres—while a more inclusive determination would allow a farm of any size to qualify as long as the owner used the land for agricultural production. Regarding cases where a parcel’s share

**Landowners who do not have land in the Green Acres Program pay higher property taxes in their community to make up for lower taxes on enrolled parcels.**

of agriculturally productive land is limited, such as when owners build homes in the country surrounded by 9 acres of woods and attached to 10 acres of land rented for haying, a more restrictive determination would grant the agricultural classification to only the 10 tilled acres while denying Green Acres benefits to any part of the parcel. In contrast, a more inclusive determination would grant Green Acres benefits to the full parcel with the exception of the house’s one acre. Regarding land owned by those who are not farmers, a more restrictive determination would limit benefits to only those who live on the farm, actively operate it, or rent it to an immediate relative who operates it. The more inclusive determination would allow anyone regardless of occupation to benefit, as is the case today.

It is important to determine with better precision who and what types of land should benefit from the program because the program’s property tax advantages are much greater today than in the past, and other parcels in the jurisdiction bear higher tax burdens for every parcel enrolled in the program. One downside to changing eligibility requirements without “grandfathering in” current participants would be increased tax bills for program enrollees who could be disqualified as a result of changes to the program.

## ELIGIBILITY CRITERIA

Statutes on the Green Acres Program specify eligibility criteria for ownership, income, and land size and use, as described in Chapter 1. Some criteria from four decades ago are still in place today, despite significant changes to the agricultural economy and farming practices. We found that:

- **Certain eligibility criteria for the Green Acres Program are outdated, difficult to implement fairly, or create inequities.**

The most problematic criteria are the minimum income threshold, the agricultural classification of property, and the determination of whether land is primarily agricultural. We discuss each of these in the following sections.

### Income

To qualify, applicants must earn from the land at least \$300 plus \$10 for every tillable acre, a standard which has been in place since 1969.<sup>10</sup> For the median size farm in Minnesota of about 160 acres, this means the owner has to produce \$1,900 yearly from the land, or less if the parcel is not fully tillable. Assessors told us this criterion is so low that it allows people to qualify for the Green Acres benefits even though the amount of farming is minimal; two-thirds of assessors in our sample of 48 said the income criterion should be updated to better reflect market rents for productive land. At the same time, the low criterion allows certain farmers, such as those who are retired or relying on Social Security incomes, to continue receiving the tax break. Fourteen of the 48 assessors also viewed the requirement for a minimum of 10 acres in production as inadequate

<sup>10</sup> *Laws of Minnesota* 1969, chapter 1039, sec. 10.

because few farmers could realistically earn a living from only 10 acres. On the other hand, the law does not require landowners to earn their entire living from the enrolled land, and small specialty-crop farms may generate as much farm income as a larger row-crop farm, according to the Department of Agriculture. We found that:

- **Difficulties in verifying that applicants for the Green Acres Program meet the income threshold make the criterion somewhat impracticable and lead to inequities.**

Most often, assessors verify income by requiring a copy of the owners’ “Schedule F” or “E” from their income tax returns.<sup>11</sup> Many assessors, however, reported problems with verifying income. For instance, not every farmer files one of the schedules, assessors lack authority to verify income tax data (which is classified as private data), and the schedules do not identify which lands produce income and which do not. Table 2.3 lists the difficulties assessors reported about verifying applicants’ incomes. The difficulties may mean that some people who should be in the program are not, or those who should not be enrolled actually are in the program.

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**Table 2.3: Difficulties in Verifying That Applicants Meet Income Criterion for Green Acres Program**

- Landowners resist having to provide financial information to the property assessor.
- Certain landowners are not required to file income taxes or do not file a Schedule F and may provide only informal documentation.<sup>a</sup>
- The Schedule F does not distinguish among which properties produced the income, making verification difficult when farmers own land in multiple areas.
- Assessors have no means to verify veracity of the Schedule F, such as whether the form submitted was actually filed with the applicant’s income tax return.<sup>b</sup>
- Certain farmers deal strictly in cash transactions, which are difficult to verify.

<sup>a</sup> Farmers file a “Schedule F” with federal income tax forms to report profits or losses from farming.

<sup>b</sup> Some of the submitted forms appeared dubious, such as those that were originals, not copies, and were filled in for the precise amount of income the owner needs to qualify for the Green Acres Program.

SOURCE: Office of the Legislative Auditor, analysis of data from interviewing county assessors, July and August 2007.

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Furthermore, the income criterion is intended to filter out landowners who do not make sufficient agricultural income but does nothing to prevent high-income

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<sup>11</sup> As a part of federal income tax returns, Schedule F allows a landowner to record profits or losses from farming. Schedule E records income or loss from renting lands.

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**Some landowners resist having to provide the financial information that property assessors need to verify applicants’ eligibility for the Green Acres Program.**

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**To be enrolled in the Green Acres Program, land must first be classified as agricultural by the assessor.**

landowners from receiving the benefits. The Green Acres tax breaks are available to millionaires as well as subsistence farmers, as long as the owners meet the other eligibility requirements. The law allows this, but some question whether it is reasonable.

## Agricultural Classification

Before a parcel can be enrolled in the Green Acres Program, it must first be classified as agricultural property. Property of any other classification is ineligible. Minnesota law defines the agricultural classification, but some county assessors believe that the definitions for classifying land as agricultural need to be more precise.

For classifying land as agricultural, statutes define types of agricultural products, but they do not address how much of each type is sufficient. For instance, bees and apiary products are considered agricultural products, but it is unclear how many acres containing how many bee hives would be sufficient to constitute an agricultural classification.<sup>12</sup> We found that:

- **The law used to classify land as agricultural is subjective and can lead to inequities among individual taxpayers.**

Inequities are also possible between counties when an assessor’s judgment in one county differs from that in another. A landowner we interviewed expressed frustration that neither the local board of review nor a representative from the Minnesota Department of Revenue could explain what was an adequate number of sales or shrubs to define her small nursery as agricultural. Disputes also arise over whether farms of less than 10 acres qualify as “exclusively and intensively used for agricultural products,” as required by law.<sup>13</sup> For instance, a second landowner told us she questioned the assessor’s decision that her nine acres used for hay, chickens, and a goat dairy were not agricultural. In the Department of Revenue’s October 2007 bulletin on Green Acres, the department acknowledges the subjectivity of interpreting the agricultural classification statute.<sup>14</sup>

## Land That Is Primarily Agricultural

Once a parcel is classified as agricultural, to qualify for the Green Acres Program, the assessor must find it to be “primarily devoted to agricultural use.”<sup>15</sup> Assessors use their judgment to decide whether, for instance, a 20-acre parcel in the country, consisting of a house on 10 wooded acres with hay grown on the remaining 10 tillable acres, is primarily devoted to agricultural use. Similar to the discussion above regarding classification, we found that:

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<sup>12</sup> *Minnesota Statutes* 2007, 273.13, subd. 23(e)(1).

<sup>13</sup> *Minnesota Statutes* 2007, 273.13, subd. 23(d).

<sup>14</sup> Minnesota Department of Revenue, *Green Acres Bulletin #1* (St. Paul, October 2007), 15.

<sup>15</sup> *Minnesota Statutes* 2007, 273.111, subd. 3(a).

- **The law requiring Green Acres land to be “primarily” agricultural is subjective and lacks precision.**

The subjectivity opens the door to charges of unfairness for taxpayers and among counties. Another landowner we interviewed, whose application for Green Acres was denied because the assessor determined the land was not primarily devoted to agriculture, was upset because he was turned down even though he met all the criteria on the application form he submitted. In the landowner’s view, he followed all the rules, but local officials did not stand by the rules that were set. Furthermore, some assessors reported that they do not view the “primarily” language as an additional criterion for eligibility. From their perspective, once the land is classified as agricultural, it automatically qualifies for the Green Acres Program (as long as the owner meets ownership and income requirements). In its 2007 bulletin on the Green Acres Program, the Department of Revenue recognizes that determining land’s primary use can be subjective.<sup>16</sup> The department provides guidance and a list of factors, such as income from the productive acres divided by total acreage, that assessors may consider in making the determination. One recommendation is to define land as primarily agricultural only when half or more of up to 80 acres is in agricultural production; for parcels of 80 or more acres, at least 40 acres would have to be in agricultural production.<sup>17</sup>

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#### RECOMMENDATION

***The Legislature should change the Green Acres law by eliminating the criterion for a minimum income level if it also adds specificity to statutes for classifying property as agricultural and defining land that is “primarily” agricultural.***

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**Eligibility for Green Acres requires agricultural income from the land, but proposals to increase the required amount would create problems.**

The existing income criterion does not sufficiently filter out those who are ineligible and is largely unnecessary for most active farmers in primarily agricultural counties. Simply adjusting the income threshold upward would better align the criterion with today’s agricultural economy and might reduce the problem somewhat, but it would also eliminate eligibility for certain farmers who arguably need the benefit more than higher-income landowners. Requiring the threshold to be a certain percentage of total family income would help disqualify some landowners who are not farmers; however, it could also make ineligible those persons who truly farm the land but happen to have spouses who work a second job. Furthermore, Minnesota’s property tax system is largely based on types of properties and land characteristics and values, not who owns them.

Despite its problems, the income criterion provides a basis for determining eligibility. We recommend its elimination only if, at the same time, changes are made to help define what land can be reasonably called primarily agricultural. Additional specificity in the land classification and Green Acres statutes would

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<sup>16</sup> Department of Revenue, *Green Acres Bulletin #1*, 4 and 18.

<sup>17</sup> *Ibid.*, 19.

**The Department of Revenue should work with farm representatives, assessors, and others to recommend to the Legislature specific standards for defining property as “primarily” agricultural.**

clarify for the taxpayer what is and is not allowed and make the criteria more workable for assessors. It would provide more objective standards for determining whether a landowner manages sufficient numbers of livestock or other nondomestic animals or maintains a sufficient proportion of productive farmland to qualify. The Department of Revenue’s list of factors for determining whether land is primarily agricultural is a step in the right direction. But the department does not offer more specific standards. Working with assessors, farm service agencies, and other stakeholders, the department should recommend standards, such as proportions of productive land and animal units per acre, needed to qualify as primarily agricultural. Such standards should be explicit but may have to vary by region of the state to accommodate differences in farming practices. Ultimately, the Legislature should review the recommended standards and change statutes as necessary to reflect the revised definitions.

In light of the Department of Revenue’s plan to begin statewide implementation of the Green Acres Program for the assessment of taxes in 2009, it is possible that landowners newly eligible in 2009 would be found ineligible if a more stringent definition of “primarily” agricultural replaced the income criterion. If that possibility is widespread, it would be reasonable to delay statewide implementation of Green Acres until the criteria are more clearly defined. Furthermore, newly defined criteria would require changes to the application form used to determine eligibility for the Green Acres Program. They would also likely require assessors to take additional steps to verify that applicants meet whatever new thresholds are set.

## **IMPLEMENTING AND ADMINISTERING GREEN ACRES**

We analyzed whether counties are consistent in the implementation and administration of the Green Acres Program. Variation from county to county and within a county can be important because it can affect whose taxes the program reduces and to whom the tax burden shifts. We also reviewed the Department of Revenue’s strategy for improving consistency, and we found that:

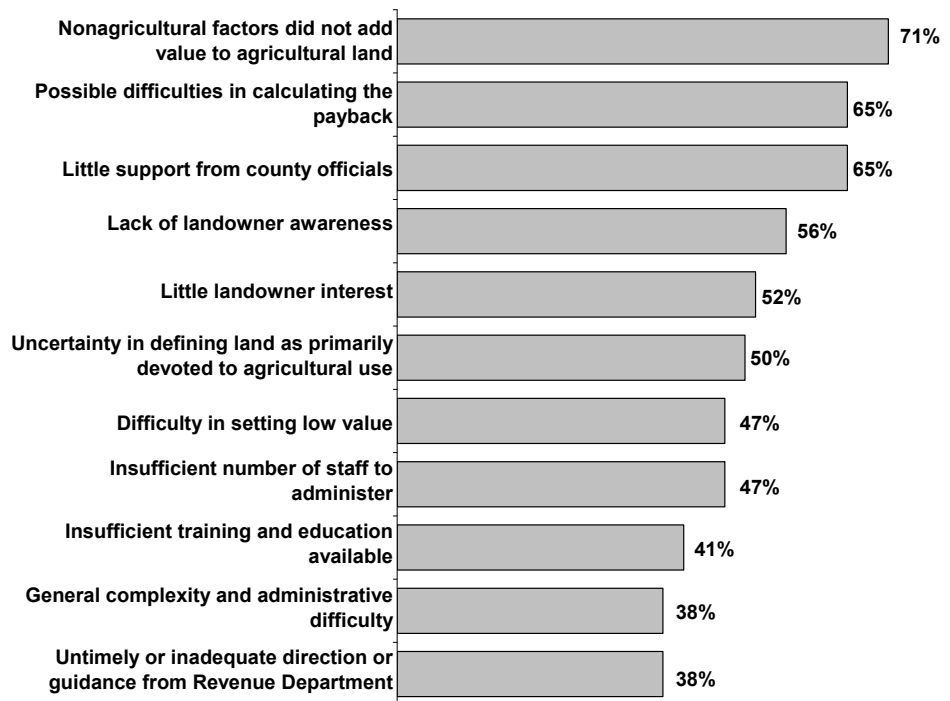
- **Not all counties that could have implemented the Green Acres Program have done so, and administration of the program is inconsistent among those that have, which may result in unequal tax burdens. The Department of Revenue’s efforts to make the program more consistent will help but can be improved.**

Beyond the availability of the Green Acres Program, counties vary in how they define land as “primarily” agricultural, whether or not they verify applicants’ income, how they treat special circumstances (such as land owned by multiple owners), how they inform landowners about the program, and their payback procedures. The following sections describe the variation as well as efforts by the Department of Revenue to make the program more consistent statewide.

### Availability of the Green Acres Program

As we stated earlier, 35 counties had not implemented Green Acres by mid-2007. Because some nonparticipating counties have nonagricultural factors influencing agricultural lands, certain landowners there are not receiving the tax benefits to which the law entitles them. In most counties with little or no acreage enrolled in Green Acres, assessors reported that nonagricultural factors have not substantially influenced agricultural land values. For other counties with no Green Acres enrollment though, the key reasons for not having implemented the program included little support for the program from county officials, expected difficulties in calculating the payback when Green Acres land is sold, and insufficient staffing to handle the added work. Figure 2.1 shows how assessors explained why the program had not been implemented as of 2007.

**Figure 2.1: Reasons for Not Implementing Green Acres Program, as Reported by Assessors, 2007**



NOTES: The survey question read, “How significant are the following reasons why the Green Acres program was not implemented within your county as of 2007?” This figure depicts the percentage of assessors responding “very significant.” Respondents could mark multiple answers. The number of county assessors responding was 34 out of 35 respondents, except for the response on landowner interest, to which 33 assessors responded.

SOURCE: Office of the Legislative Auditor, analysis of data from surveying county assessors, July 2007.

**The law requiring land to be “primarily” agricultural is applied differently from county to county.**

### Land That Is Primarily Agricultural

Statutes require Green Acres land to be devoted “primarily to agricultural use,” and as described earlier, this determination requires assessor judgment, especially in the cases of small parcels, hobby farms, and land with low proportions of productive acreage. We learned that assessors deal with the issue differently, which means that landowners found eligible in one county may very well be found ineligible in another. In some counties, as long as the owner has land classified as agricultural, the assessor will consider the land to be primarily in agricultural use. In others, assessors take additional steps to determine the primary use, such as calculating tillable acres and agricultural animal units expressed in acre equivalents or evaluating whether income generated from the land is incidental or sufficient to support living there. In still other counties, questions do not arise about whether land is primarily agricultural because all of the farms are large and have predominantly tillable tracts.

### Verification of Income

Counties are not uniform in whether they verify applicants’ agricultural income, but the lack of consistency only becomes a problem when it can lead to inequities. This could occur in counties with farms of small size where the adequacy of income from agricultural production may be in question or in counties with high participation rates where the assessor does not have personal knowledge of each applicant’s circumstances. On the other hand, in the parts of counties with large farms in production on predominantly tillable acreages, verifying the amount of agricultural income is unnecessary because all applicants would unquestionably exceed the income threshold. In our sample of Green Acres counties, eight assessors reported that they do not verify applicants’ income or they rely on the applicants’ signed statements, and three of them were counties with either numerous small farms or moderate to high participation rates. Verifying agricultural income has problems, as noted earlier, but beyond that, inconsistency in who is verified within a county may lead to unequal treatment for similar applicants. Some county assessors require documentation of all applicants’ agricultural income, some require it only if they have questions about a particular property, and others require no verification at all; only this latter group is a cause for concern. Table 2.4 shows the different approaches.

Most assessors do not reverify landowners’ income over time, as Table 2.4 illustrates. Because the income threshold is so low, many assessors view reverifying income as necessary only when the property is divided or sold.

### Multiple Ownership and Split Classifications

Variation is unwarranted in counties’ decisions on verifying eligibility for properties owned by multiple owners. Because these decisions determine who will and will not receive the tax benefits, they are important. Figure 2.2 shows that some assessors allow multiple owners to receive the benefit as long as one owner qualifies, while others prohibit this, and still others give the qualifying owner a pro rata share of the benefit.

**Some assessors require documentation of all applicants’ agricultural income, some require it only in certain situations, and others require none at all.**

**Table 2.4: Counties' Methods for Verifying Agricultural Income Reported on Green Acres Applications, 2007**

<u>Method</u>	<u>Number of Counties</u>	<u>Percentage</u>
Require tax return information or rental lease agreement	23	48%
Require written documentation, such as receipts of sales	8	17
Take the owner's word but require a Schedule F if property's eligibility is questionable	6	13
View the land or speak with the owners	3	6
No additional documentation beyond a signed application form	3	6
Do not verify income	3	6
Not applicable	<u>2</u>	<u>4</u>
Total	48	100%
 <u>Reverification Over Time</u>		
Do not reverify income <sup>a</sup>	25	52%
Reverify when land is divided or sold or the assessor questions the owner's use of the land	13	27
Reverify periodically	4	8
Annual verification	3	6
Not applicable	<u>3</u>	<u>6</u>
Total	48	100%

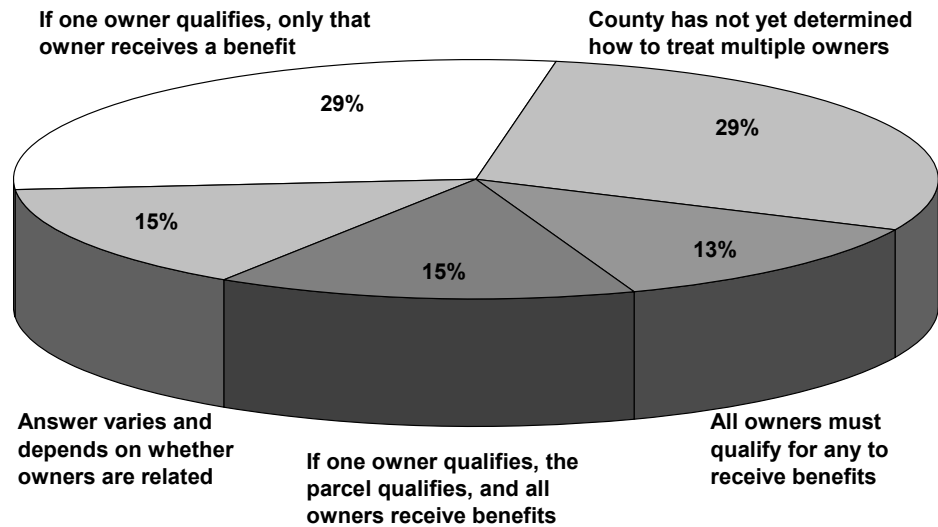
NOTES: Data represent a sample of 48 counties with land enrolled in the Green Acres Program as of 2007. Percentages may not sum to 100 due to rounding.

<sup>a</sup> In 4 of the 25 counties, assessors said they had no need yet to reverify income because the program began within the last two years.

SOURCE: Office of the Legislative Auditor, analysis of data from interviewing county assessors, July and August 2007.

Counties also differ in the use of split classifications, where an assessor classifies one portion of the parcel as residential and the other as agricultural. Based on our interviews, 21 of 45 assessors (47 percent) do not allow parcels to have split residential-agricultural classifications. At the same time, about 38 percent of our sample of counties with Green Acres allow residential-agricultural split classifications, even if for only a few properties, and the properties can become eligible for Green Acres tax benefits. Another 16 percent allow split classifications but consider these properties ineligible for Green Acres, typically because the parcels are small and viewed as being primarily residential. We believe that county practices on this matter should be consistent.

**Figure 2.2: Counties’ Practices Regarding Green Acres Eligibility of Parcels Owned by Multiple Owners, 2007**



NOTES: Data represent a sample of 48 counties with land enrolled in the Green Acres Program as of 2007. Percentages do not sum to 100 due to rounding.

SOURCE: Office of the Legislative Auditor, analysis of data from interviewing county assessors, July and August 2007.

**In some counties, assessors provide information on the Green Acres Program only when landowners request it.**

**Informing Landowners about the Program**

County assessors vary in how they inform landowners about the Green Acres Program. Lack of awareness may lead to lower participation than would otherwise be the case. In our view, the variation tends to be reasonable except in a small number of counties where there has been little effort to provide information. As Table 2.5 shows, five counties out of our sample of 48 have low participation rates—with up to 13 percent of farm acres enrolled—in the program, and assessors there provide program information only when landowners request it. Such a practice is more reasonable in counties that already have an established Green Acres Program and high participation. The Department of Revenue’s role in informing landowners has been limited to posting program information on its web site and answering queries that cannot be resolved at the county level.

**Payback Procedures**

Inconsistency arises over whether the buyer or seller is responsible for the payback of taxes when Green Acres land is sold. This is a problem when owners expect payback requirements to be the same across county boundaries. Most often the seller is responsible for paying the deferred taxes; but in some counties, a delay in the process prevents this from happening. Assessors in some counties

**Table 2.5: County Efforts to Inform Landowners about Green Acres Program, by Rate of Acres Enrolled, 2007**

	Low Enrollment <sup>a</sup>		Moderate to High Enrollment <sup>a</sup>	
	Number of Counties	Percentage	Number of Counties	Percentage
Contacts each individual owning agricultural land in the area designated for Green Acres	19	76%	5	22%
Provides information upon request	5	20	3	13
Mails notice to all agricultural landowners in the county	1	4	5	22
Initially sent letters to all agricultural landowners but now notifies only those potentially eligible	0	0	8	35
Provides information in local newspapers and county newsletters	<u>0</u>	<u>0</u>	<u>2</u>	<u>9</u>
Total	25	100%	23	100%

NOTES: Data represent a sample of 48 counties with land enrolled in the Green Acres Program as of 2007. Many counties also reported that they provide Green Acres information to local government officials. Percentages may not sum to 100 due to rounding.

<sup>a</sup> Low enrollment includes counties with 0.01 up to 13 percent of deeded farm acreage in the Green Acres Program, and high enrollment includes all other counties (those with a minimum of 13 percent).

SOURCES: Office of the Legislative Auditor, analysis of data from surveying county assessors, July 2007, and data from the Department of Revenue's 2007 Spring Mini Abstract.

**Owners who sell their Green Acres land are typically required to pay back three years worth of tax reductions, but calculating the amount to be paid back is very difficult when the land is split and sold off piece by piece.**

reported that if the county does not become aware of the sale at the time of purchase, the deferred tax is viewed as a lien against the parcel, meaning the new buyer must pay it. Under these circumstances, new owners receive an unexpected tax bill. Other counties have avoided this by working with closing agents and real estate attorneys to make them aware of the need to have responsibility for the payback determined at the sale's closing.

Although counties vary in the procedures they follow for calculating paybacks, the variation is not a problem as much as the difficulty of making the calculation. Assessors in our sample most frequently said that especially when a parcel is split and sold off piece by piece, the complexity of Minnesota's property tax system makes the payback calculation complicated and very time consuming. Oftentimes counties' information technology systems have been programmed to help with the calculation, but some county assessors reported that their automated systems are not failsafe or useful when especially complex transactions occur. Besides the large administrative burden, the complexity can lead to errors. While we do not have a count of such errors, we learned anecdotally about situations where a payback was made on an entire parcel even though only part of it sold.

**The Department of Revenue issued a 2007 bulletin to help implement the Green Acres Program statewide.**

**Department of Revenue Efforts**

To address a lack of uniformity in the administration of the Green Acres Program, the Department of Revenue issued a Green Acres bulletin in October 2007.<sup>18</sup> The bulletin describes the department’s approach for implementing the program statewide and offers guidance to assessors dealing with issues that the law fails to make clear. We found that:

- **The Department of Revenue’s recent bulletin addresses many of the inconsistencies involved with administering the Green Acres Program, but its method for valuing nontillable farmland does not adequately reflect differences in such land across the state.**

In the bulletin, the department gives specific directions for classifying a parcel that has both residential and agricultural uses and recommends against splitting its classification between the two uses when it has sufficient agricultural activities. It recommends that assessors require appropriate evidence of agricultural income from all applicants, regardless of whether the assessor personally knows an applicant. It specifies how assessors are to determine whether parcels under ten acres qualify for the agricultural classification. The department also outlines decision steps assessors should take before concluding that an applicant qualifies for the Green Acres Program. As part of this, the department offers a list of factors to help assessors determine whether land is “primarily” agricultural. In the near future, the department expects to add three more bulletins, one dealing with the application process, a second on communications about Green Acres, and a third on tax calculations and payback mechanisms.

**The department is using sales of farmland that is free of nonagricultural influences in five counties as a base to set the agricultural-use values on Green Acres land in the rest of the state.**

To overcome difficulties assessors found in setting agricultural-use values for Green Acres land, the department describes in the bulletin a method to be used in all counties. The law says that qualifying land should be valued solely according to its agricultural value—based on sales of land with similar agricultural characteristics.<sup>19</sup> Because the Department of Revenue believes there are now insufficient farmland sales free of nonagricultural influences on which to base agricultural-use values, it developed an alternative method. The method uses sales of tillable farmland from 1990 through 1996 in five southwestern Minnesota counties to establish a base for an agricultural-use value that is free of nonagricultural influences. The base is compared with the median sales price of farm acres from that same time period in each county. The ratio from this comparison is used to calculate what current values are likely to be. That is, if a county’s own median farmland sales from 1990-1996 were 110 percent of the base from that time period, then today the county would set its average agricultural-use value at 110 percent of current median sales prices in the five base counties.

<sup>18</sup> Department of Revenue, *Green Acres Bulletin #1*, 9-11.

<sup>19</sup> *Minnesota Statutes* 2007, 273.111, subd. 4.

While most county assessors in counties with Green Acres land reported that they find this method provides reasonably acceptable valuation estimates for tillable land, the method is less useful for nontillable land.<sup>20</sup> Usable data on sales of nontillable land were not as common, and the department’s process did not yield definitive results for nontillable land. Consequently, the department opted for an alternative method that it admits has problems but at least provides a uniform basis for valuation. All nontillable land is to be divided into one of two categories: (1) productive land, such as meadow and grasslands used for grazing, and (2) nonproductive or wasteland, which includes steep slopes, dense stands of trees, or other conditions that make it unsuitable for grazing or other agricultural uses. The nontillable *productive* land will be valued for Green Acres purposes at 50 percent of the agricultural-use value for tillable land in a county. The wasteland will be at 25 percent of tillable acres’ values.

Essentially, the department’s alternative method creates a single statewide ratio that is used to calculate agricultural-use values for nontillable lands in every county. In many counties, assessors view the results of applying the ratio as acceptable approximations of their agricultural-use values. But elsewhere, county assessors view the results as unacceptable for nontillable acres.

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**There is no single, clearly acceptable method for estimating agricultural-use values for Green Acres land.**

We recognize that there is no single, clearly acceptable method for estimating agricultural-use values for land in areas where nonagricultural factors drive up farmland values, but we think the relationships between tillable and nontillable lands differ enough across the state that using one statewide ratio is not realistic. The department acknowledges that the values for nontillable land derived by the new methodology are imperfect. In some cases, the values derived from the new method are much lower than the agricultural-use values determined by assessors. For example, in several north central Minnesota counties, the average agricultural-use value under the new methodology for nontillable productive land would be about half the current agricultural-use value.<sup>21</sup> In counties where the agricultural-use values for some nontillable land are roughly equivalent to those for tillable land, as in these north central Minnesota counties, following the department’s method will force counties to substantially lower values for nontillable acres. In turn, this would mean offering the Green Acres benefits to virtually all landowners with nontillable acreage, thereby shifting the property tax burden to others.

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## RECOMMENDATION

***The Department of Revenue should continue its efforts to make the Green Acres Program more consistent statewide. At the same time, it should make some changes including modifying its statewide approach for valuing nontillable land in the program.***

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<sup>20</sup> A small number of counties, including Olmsted and Rice, reported that the department’s method resulted in excessively low values for both tillable and nontillable land.

<sup>21</sup> Conversely, in some south central counties, assessors reported that the new method derives values for nontillable land that are much higher than current agricultural-use values.

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**The Department of Revenue should define acceptable practices for informing landowners about the Green Acres Program.**

In its October 2007 bulletin, the Department of Revenue advised assessors to require every applicant to document agricultural income, which is overly rigid given that verifying income is unnecessary for large parcels that are predominantly tillable and in production. Earlier we recommended replacing the income criterion; but if the current criterion remains in place, the department should focus recommendations for income verification on those cases with questionable income from agricultural production. In its forthcoming bulletins, the department should include guidance on the circumstances under which assessors need to reverify agricultural income and describe acceptable practices for informing landowners about the Green Acres Program. Furthermore, the department should provide additional specific guidance to determine whether uses of land are primarily agricultural, which may require statutory changes as we recommended earlier.

In addition, the department should consider a method for valuing nontillable Green Acres land that better recognizes differences across the state in nontillable land values. Generally, the values for nontillable land relative to tillable land increase from the southern to northern parts of the state, as the quality of the tillable land recedes and the use of nontillable land for grazing increases. One possible method is to set the agricultural-use value for nontillable land near 100 percent of the agricultural-use value for tillable land in north central counties and gradually decrease it elsewhere until it reaches 50 percent of the tillable land values in southern counties. Using this as a starting point, the department’s regional representatives should work jointly with county assessors to determine agricultural-use values for nontillable land that are appropriate to the markets in their regions. The values may have to be “blended” even within a region to reflect actual agricultural-use values. This type of collaboration does not represent a departure in practice for those county assessors who reported that they already work with other counties to set agricultural-use values when they have inadequate numbers of agricultural land sales within their individual counties.

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**The method for setting values on nontillable Green Acres land should better reflect differences in land values around the state.**

Our approach would replace the department’s single, statewide ratio between values of tillable and nontillable land with ratios that better reflect the actual relationships between tillable and nontillable land in different parts of the state. Generally speaking, the result of this process in certain northern counties would produce higher agricultural-use values for nontillable productive land relative to tillable land. These ratios of value would gradually decrease as one proceeded toward the southern counties where one is more likely to find much lower agricultural-use value for nontillable than tillable land. The difference in nontillable land values between the north and the south would be lower than under the department’s method, thereby requiring less blending of values to produce the equalization that is the department’s objective.

**Green Acres Applications Denied**

Most county assessors keep records of the reasons why they deny Green Acres applications, but a few do not; some have not received any applications that were ineligible. We reviewed applications in six of the ten counties that had denied at

least seven applications in 2006 and maintained records of denied applications.<sup>22</sup> In reviewing applications, we found that:

- **County assessors denied eligibility to only a small percentage of landowners who submitted written applications for the Green Acres Program in 2006, and the basis for the denials was generally reasonable.**

Based on our review, nearly all applications were denied because the applicant was clearly ineligible for one or several objective and straightforward reasons. Most commonly, applicants were denied because they either had insufficient agricultural income or they failed to provide evidence of their agricultural income (such as a Schedule F filed with income tax forms). A small number of cases were denied solely because the assessor had deemed that the property was not “primarily devoted to agricultural use,” which requires the assessor to make judgment calls. Based on information in the files, we believe these judgments appeared reasonable. Yet one landowner we interviewed could not understand why his application was denied when the information he supplied appeared to meet all the program’s criteria. Unbeknownst to him, the decision regarding “primarily” agricultural land was made independent of the information on the application form.

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<sup>22</sup> Some assessors have no records of denying applications because, instead of completing applications, landowners decide against applying after speaking with the assessor who describes the minimum acreage and agricultural income levels.

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# Programs to Preserve Agricultural Land

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## SUMMARY

*Minnesota's primary state programs for preserving agricultural land can help control the shape and pace of development but do not adequately preserve farmland for the long term. The number of acres enrolled in the preservation programs is small and has been declining since the late 1990s. In most of the nine counties with land enrolled, local officials indicated that the preservation programs were beneficial, but several noted that their counties or cities would likely have developed very similarly without the program's tax incentives. Besides low enrollment, the programs' effectiveness is limited because their tax benefits are small relative to the potential gain from selling the land. Furthermore, relatively few local governments participate overall, and participants may terminate the preservation commitments after eight years. A small number of agricultural preserves were terminated even before the eight-year waiting period, but no agency is charged with overseeing this. The Legislature should supplement the programs with alternative strategies if it wishes to preserve land for the long term, and it should improve current programs by specifying responsibility for enforcement. In addition, some of the natural resource conservation projects funded by revenues generated via the land preservation programs may not meet a strict interpretation of the uses allowed in law. The Legislature should define unallowable activities more specifically if it concludes that such projects are inappropriate.*

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Minnesota's two agricultural land preservation programs share important features with the Green Acres Program, as Chapter 1 described, but they have a longer-term focus. This chapter analyzes the Metropolitan Agricultural Preserves Program in the Twin Cities and the Agricultural Land Preservation Program in Greater Minnesota. Specifically, we address the following questions:

- **How well have the agricultural land preservation programs worked to preserve land for farm uses?**
- **How have the dollars raised as part of the agricultural land preservation programs been spent, and who oversees that spending?**

To answer these questions, we studied state statutes and background materials on the land preservation programs. We analyzed data from the Department of Revenue on tax credits and acreage and value of land enrolled in the land preservation programs. We interviewed representatives of the Department of Agriculture and the Metropolitan Council. We also interviewed county and municipal officials in the nine counties where the two programs operate. From four of these counties, we received data to analyze the number of covenant renewals and terminations. Using a sample of six counties that do not participate

in the programs but share similarities with counties that do, we studied land-use ordinances and interviewed planning and zoning officers and other local officials. For information on counties’ conservation accounts, we interviewed heads of the organizations that spend conservation-account money.

## EFFECTIVENESS OF THE LAND PRESERVATION PROGRAMS

For individual landowners deciding whether to keep agricultural land or sell it for other uses, many factors come into play, such as the strength of the agricultural economy, the local land market, the owners’ interest in continuing to farm, and the owners’ age relative to retirement. Participation in one of the land preservation programs may also be a factor. As described in Chapter 1, the programs’ goals include maintaining productive farm operations in the metropolitan area, preserving farmland, and encouraging the orderly development of rural and urban land uses. In analyzing the two programs designed to preserve agricultural land, we found that:

- **The Metropolitan Agricultural Preserves Program and the Agricultural Land Preservation Program in Greater Minnesota can help shape development and slow its pace, but they are not adequate to preserve farmland for the long term, particularly in areas facing development pressures.**

We spoke with county and municipal officials about the programs’ impacts on development. We also examined data on the loss of farmland to other uses and analyzed factors that could limit the effectiveness of the programs, including competing financial incentives, acres enrolled, local government participation, and the duration of farmers’ and local governments’ commitments to preservation. The following sections describe first the programs’ impacts on development, followed by farmland loss and limitations on the programs’ effectiveness.

### Impacts on Development

Minnesota’s agricultural land preservation programs do not stop land development, but they can help keep agricultural areas from urban encroachment. We found that:

- **The agricultural land preservation programs can help shape development or slow urban growth.**

Among local officials we interviewed, many described preservation programs as a positive “tool in their toolbox” to support agricultural land policies. They view the programs as a means for staging or slowing down the rate of development and an incentive for farmers to continue to farm. As long as the agricultural preserve stays in place, it helps farmers remain in farming and prevents land development. Beyond that, certain county representatives said that the program prevents cities from annexing township land and helps contain urban sprawl. With their requirements for zoning land for long-term agricultural uses, the

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**In general, county and municipal officials described the agricultural land preservation programs as a useful tool that supports their local farmland policies.**

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**Local officials' commitment to retaining farmland can be as important as a land preservation program.**

programs allow for orderly development instead of “scattered site” development with conflicts arising between residential dwellers and nearby farms. Some county representatives reported that the programs also keep townships’ public-service delivery costs low because the agricultural preserve areas do not receive paved roads, sewer and water systems, and similar urban amenities.

At the same time, many local officials we interviewed (including supporters of the program) believe that, lacking the preservation programs’ financial benefits, their counties or cities would not likely have developed much differently. They view the programs as reinforcements that buttress local strategies to preserve agricultural land but said that factors such as local elected officials’ commitment to preservation are as important. In Greater Minnesota, county representatives also mentioned that the amount of the tax advantage is relatively small and has not kept pace with the changing agricultural economy.

The programs’ impacts are most obvious in areas that face strong development pressures but have the largest number of acres enrolled—Carver County and southern Dakota County. A partial indication of the program’s effectiveness in preserving farmland is the rate of farmland loss over time, which is discussed below. The programs’ overall effect on development patterns or on land preservation is likely to be limited by: competing financial incentives, low enrollment, low participation by counties in Greater Minnesota, and the limited duration of development restrictions. We discuss these below, following a summary of the trend in declining agricultural acreage.

## Loss of Farmland

Counties have lost farmland for a variety of reasons, including population growth, increased demand for large-lot residential development in the country, and increased demand for farmland for recreational purposes. In analyzing how much land remains in agricultural use over time, we cannot isolate the effect of the farmland preservation programs amidst the many economic and market factors in play. In addition, market forces often differ from one county to another, making comparisons of farmland losses difficult. Furthermore, the agricultural land preservation programs cannot realistically be expected to fully stop the conversion of farmland to other uses. Data on farmland losses are an incomplete measure of the success of Minnesota’s agricultural land preservation programs because they do not account for the programs’ impacts on shaping development. Notwithstanding these difficulties, we examined the trend in farmland losses as a partial indication of the programs’ impact on land preservation. Table 3.1 shows for 1982 through 1997 (the most recent period for which comparable data are available) that rates of farmland losses in the Twin Cities metropolitan area were far greater than elsewhere.<sup>1</sup> Among the three Greater Minnesota counties with land enrolled in the Agricultural Land Preservation Program, Wright County lost about 6 percent of farmland during

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<sup>1</sup> Property tax assessment data for the more recent period of 1998-2007 show similar trends in farmland loss. However, for certain individual counties, the property tax data show greater rates of loss, and it is unknown how much of that is due to actual losses or changes in assessment practices.

**Table 3.1: Farmland Loss in Counties with Land Enrolled in Agricultural Land Preservation Programs and in the Rest of the State, 1982-1997**

	Farmland Acres (thousands)		Percentage Loss
	1982	1997	
Anoka	77	57	26%
Carver	188	167	11
Dakota	258	210	18
Hennepin	103	73	29
Scott	153	137	10
Washington	152	123	19
Waseca <sup>a</sup>	246	244	1
Winona <sup>a</sup>	231	227	2
Wright	294	278	6
Twin Cities metropolitan area	939	769	18
Greater Minnesota	25,959	25,623	1
Statewide	26,897	26,392	2%

NOTES: Farmland includes cultivated and uncultivated cropland, pastureland, and Conservation Reserve Program land. Because the data are based on sampling, the final results are more statistically conclusive for regions and the state than for individual counties. More recent comparable data are not available. Property tax assessment data for the more recent period of 1998-2007 show similar trends in farmland loss for some counties but show greater rates of loss for other counties, and it is unknown whether that is due to actual losses or changes in assessment practices.

<sup>a</sup> Statistical uncertainty about the data for Waseca and Winona counties means that farmland loss there is inconclusive.

SOURCE: Office of the Legislative Auditor, analysis of data from the National Resources Inventory compiled by the U.S. Department of Agriculture's Natural Resources Conservation Service.

**Loss of farmland in most counties that participate in the agricultural land preservation programs suggests that the programs' impacts on preserving land are limited.**

that period. Statistical uncertainty about the data for Waseca and Winona counties means that farmland loss there is inconclusive for those years.

In Chapter 1, we showed that the Twin Cities metropolitan area and Greater Minnesota lost farmland between 1982 and 1997. This includes seven of the nine counties that participate in the agricultural preservation programs, while data for the remaining two (Waseca and Winona counties) show small losses but are statistically inconclusive. In the metropolitan area, six of the seven counties participate in the Metropolitan Agricultural Preserves Program; but as a group, they lost 18 percent of their farmland between 1982 and 1997, compared with 1 percent for Greater Minnesota. Even Carver County, which has the largest enrollment in agricultural preserves, lost 11 percent of its farm acres in that period. While an incomplete measure, the data on farmland loss suggest that the land preservation programs' impacts on preserving land are limited amidst the economic forces and other factors we discuss below.

## Competing Financial Incentives

Particularly in the metropolitan area, development pressures have inflated property values, and land sales have resulted in housing and commercial developments and other land uses at the expense of farmland. In the midst of these economic forces, programs to preserve farmland are likely to have a limited effect because:

- **The financial benefits of the agricultural land preservation programs can be small relative to financial gains available when farmland is converted to other uses.**

Even though the agricultural preservation programs offer nonfinancial benefits, such as protections from annexation described in Chapter 1, their financial benefits can be small in comparison with the financial gain landowners may receive from selling their land. In the Twin Cities area, the Metropolitan Agricultural Preserves Program offers two financial advantages over the Green Acres Program—the \$1.50 per acre credit and no requirement to pay back three years worth of deferred taxes should the land be developed. But both of these are small relative to the \$59 per acre average tax benefit received by Green Acres landowners in the Twin Cities. Plus, in Greater Minnesota, the program does not lower the taxable value of the land and offers just \$1.50 per acre per year for an eight-year farming commitment. These benefits are small compared with increases in farmland values. Between 1997 and 2007, estimated market values for farmland increased by an average of \$8,100 per acre in the Twin Cities area and by over \$1,400 per acre in Greater Minnesota. Due to the high market values, landowners may not want to postpone the option of selling their land for development.

At the same time, lands enrolled in the agricultural land preservation programs are not charged when local governments use special assessments to pay for public improvements. In some areas, the financial benefit of avoiding those special assessments can be significant, but statewide data are not available on the extent of special assessments near agricultural preserves.

## Acres Enrolled

Another factor that limits the effectiveness of the agricultural land preservation programs is the lack of farmland enrolled in the programs overall. We found that:

- **The number of acres enrolled in the agricultural land preservation programs is small in nearly all participating counties and has been declining in all of them.**

As we showed in Chapter 1, the Metropolitan Agricultural Preserves Program enrolls 25 percent of farmland in the Twin Cities area. Only Carver County has more than one-third of its farmland enrolled in the program (56 percent). In Greater Minnesota, Waseca enrolled 33 percent of its farmland, but Winona and Wright counties enrolled less than 15 percent.

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**Between 1997 and 2007, estimated market values for farmland increased by an average of \$8,100 per acre in the Twin Cities area and \$1,400 per acre elsewhere.**

**Enrollment in the agricultural land preservation programs peaked in the late 1990s.**

In addition, the number of acres enrolled in these preservation programs has been declining in all nine participating counties, as Table 3.2 illustrates. As we discussed in Chapter 1, enrollment reached its peak in the late 1990s, but has steadily declined over the last decade. One reason for the declining enrollment is the programs' small financial benefit relative to the gains of selling the land, as discussed earlier.

**Table 3.2: Land Enrolled in Agricultural Land Preservation Programs, from Peak Enrollment to 2007**

	Enrolled Acres		Percentage Loss
	1998	2007	
<u>Metropolitan Agricultural Preserves</u>			
Anoka	2,938	1,816	38%
Carver	102,554	93,727	9
Dakota	64,818	59,803	8
Hennepin	13,377	10,496	22
Scott	8,475	7,185	15
Washington	<u>10,285</u>	<u>9,053</u>	12
Twin Cities metropolitan area total	202,447	182,080	10%
<u>Agricultural Land Preservation</u>			
Waseca	84,139	82,989	1%
Winona	42,029	41,062	2
Wright	<u>11,456</u>	<u>9,158</u>	20
Greater Minnesota total	137,624	133,209	3%
<u>Both Programs</u>			
Statewide	340,071	315,289	7%

NOTE: Overall, enrollment peaked in 1998, but it peaked between one and five years earlier in Anoka, Hennepin, Scott, Washington, Winona, and Wright counties.

SOURCES: Office of Legislative Auditor, analysis of: data from the Minnesota Department of Revenue's 2007 Spring Mini Abstract; conservation account data from the Department of Revenue; and the Land Economics database maintained by the University of Minnesota, Department of Applied Economics.

Carver County has the highest enrollment in agricultural preservation programs combined with strong land-use controls for township land. However, most Carver County municipalities with land enrolled saw enrollments peak in 1998 or earlier and generally decline since then. Beyond that, the county lost about 11 percent of its farmland acres between 1982 and 1997. Its losses are smaller than those in most other metropolitan area counties, but they reflect how hard it is for preservation programs to overcome economic forces in the Twin Cities area. Moreover, it is not clear how much of the successful agricultural preservation in Carver County is attributable to the Metropolitan Agricultural Preserves Program's financial benefits, the county's strong land-use controls, or the preservation commitment of its local officials.

## Local Government Participation

A third factor that limits the effectiveness of the agricultural preservation programs is low participation by local governments in Greater Minnesota. As described in Chapter 1:

- **Only Waseca, Winona, and Wright counties have ever had land enrolled in the Agricultural Land Preservation Program in Greater Minnesota.**

It appears unlikely that participation will expand, both because of the program's minimal financial benefits and because nonparticipating counties have adopted other controls to manage farmland.

We interviewed county representatives in a sample of six counties that do not participate in the land preservation programs.<sup>2</sup> In our sample, county officials for the most part indicated little interest in extending the Agricultural Land Preservation Program to their residents or said that their own planning and zoning initiatives were sufficient for their needs. At the same time, however, Stearns County officials have recently proposed that the county consider participating in the Agricultural Land Preservation Program.<sup>3</sup> Because the topic was still under discussion in early 2008, it was unclear whether the proposed change would be adopted and how it would affect Stearns County, which already has in place zoning ordinances designating lands for long-term agricultural use.<sup>4</sup>

Counties not involved with Greater Minnesota's land preservation program use planning, zoning, and other development controls to prevent the conversion of farmland to other uses, but these methods do not necessarily preserve farmland for the long term and may produce unintended results. In general, counties and plans we reviewed show concern for preserving farmland. Our analysis of comprehensive plans in the six sample counties indicates that all six have designated agricultural zones, although Chisago County has no land within its agricultural district and is considering lowering the required number of acres for such a district. Four of the six counties restrict densities to no more than 1 dwelling per 40 acres.<sup>5</sup> Three of the counties control the development of agricultural land with policies that permit development only on land with lower

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**Most of the six counties in our case studies that do not participate in the Agricultural Land Preservation Program indicated little interest in the program because they have adopted local controls to protect farmland.**

<sup>2</sup> Most Minnesota counties have adopted comprehensive land-use plans to guide development, but our sample contained six that have large amounts of agricultural property and also face significant development pressures: Chisago, Kandiyohi, Morrison, Olmsted, Rice, and Stearns counties.

<sup>3</sup> Stearns County Environmental Services, *Stearns County Draft Comprehensive Plan Update*, 7-27, [www.co.stearns.mn.us/Government/6129.htm](http://www.co.stearns.mn.us/Government/6129.htm), accessed December 12, 2007.

<sup>4</sup> Stearns County has designated three agricultural zones with zoning densities of 1 dwelling per 160 acres, 1 per 80 acres, and 1 per 40 acres, respectively. In contrast to the county, many rural townships there have expressed interest in changing their zoning requirements to encourage development. If the county adopts its draft comprehensive-plan update, the agricultural preservation measure would not prevent development but could likely slow down the development process, according to a Department of Agriculture official.

<sup>5</sup> One of the four allows a second dwelling unit in special circumstances, such as when the parcel contains an abandoned farm homestead site.

quality soil conditions. Some counties allow owners to transfer development rights from their land to elsewhere in the county; once development rights have transferred from a parcel, that parcel is restricted to agricultural and open space. These various land-use controls help protect agricultural land, but some are subject to change as county plans and policies change. For instance, one county we spoke with was in the process of considering a change to allow a density of 4 dwellings per 40 acres. Further, in counties where townships have developed their own land-use ordinances, the county’s intent to preserve land may conflict with a township’s desire to develop. As an example of unintended results, one county that allows landowners to transfer development rights found its program to be successful, but the program has also been used to transfer development rights *out* of areas intended for near-future development. In another county, landowners transferred their development rights, but their land was soon annexed and rezoned, followed by additional dwellings being built on the lands from which the development rights had transferred.

## Removing Land from Preservation

The effectiveness of Minnesota’s agricultural preservation programs to preserve land for the long term is also hampered because preservation commitments may last for only eight years, and terminating from the program carries minimal consequences. We found that:

- **Either landowners or local governments may end their commitment to agricultural preserves by filing notice to terminate a preserve and then waiting eight years.**

When allowing an agricultural preserve to expire, metropolitan-area landowners do not have to pay back any of the reduced property taxes they received while in the program, unlike in the Green Acres Program. In Greater Minnesota, though, owners become ineligible for the \$1.50 per acre tax credit once they file notice to terminate the preserve.<sup>6</sup> The Greater Minnesota program does not reduce enrolled lands’ taxable value, as Chapter 1 explained, so participants who leave the program see no change in tax burden beyond the loss of the tax credits.

Many acres of farmland that were once in an agricultural preserve have expired from the program.<sup>7</sup> The proportion of expired acreage is higher in and near the metropolitan area, as Table 3.3 shows.

The success of Minnesota’s land preservation programs depends in part on the landowner and in part on the willingness of local units of government to maintain zones designated for agricultural preserves. Certain local units of government that in the past supported agricultural preserves have changed positions as their residents’ situations changed and residents’ interests in selling their land grew.

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**Some local governments that supported agricultural preserves in the past have since changed their position.**

<sup>6</sup> *Minnesota Statutes* 2007, 273.119, subd. 1.

<sup>7</sup> Aggregate expiration data are not available for each county, but over the last decade enrollment declined in all nine counties with land enrolled in preservation programs, as noted earlier.

**Particularly in and near the Twin Cities area, many farmland acres once in an agricultural preserve are no longer enrolled.**

**Table 3.3: Farmland Acres Expired from Agricultural Preserves, by County, 2007**

	Carver	Scott	Waseca	Wright
Peak acreage enrolled <sup>a</sup>	102,554	8,840	84,139	11,468
Acres expired	15,910	3,490	2,090	2,735
Expired acres as percentage of peak enrolled acres	16%	39%	2%	24%

NOTE: Data on expired acres are not available from the other five counties with land enrolled in Minnesota’s agricultural land preservation programs.

<sup>a</sup> The peak enrollment year was 1991 for Scott County, 1997 for Wright County, and 1998 for Carver and Waseca counties.

SOURCE: Office of the Legislative Auditor, analysis of data from county auditors or planning officials in Carver, Scott, Waseca, and Wright counties.

As an example, in Scott County, land in about a dozen different communities had been designated for agricultural preserves since the law passed in 1980, but today, only three townships and parts of two others still have the dwelling densities of 1 unit per 40 acres, with one of those two likely to change soon. On the other hand, Carver County continues to maintain in its townships a density ratio of no more than 1 dwelling unit per 40 acres of land, and the number of acres preserved has remained more steady there than in neighboring Scott County.<sup>8</sup>

In addition:

- **No state or local agency has enforcement authority over land held in agricultural preserves.**

We learned of a small number of cases where land in an agricultural preserve was developed before the eight years ended and even before notice of an expiration was filed. In some of these cases, township officials had issued permits allowing the development without first changing their comprehensive plans or zoning ordinances to remove the long-term agricultural use designation. County officials who discovered the development had no authority to enforce the law or stop the development and could only remove the agricultural-preserves tax benefits. Nor is there authority to resolve questions that arise in the course of using the programs. For example, when an owner signed and notarized a notice to terminate a preserve in one year but the notice was not recorded in the county until two years later, whether the expiration became effective eight years from the time of signing the notice or from the time of the recording was in dispute.

<sup>8</sup> At the same time, Carver County cities, whose comprehensive plans are independent of the county’s, have lost most of their agricultural preserves acreage, with only 39 acres remaining enrolled in Carver County cities as of 2007.

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## RECOMMENDATION

*If Minnesota wishes to preserve lands for agricultural uses over the long term, the Legislature should consider supplementing existing agricultural land preservation programs with other strategies. Furthermore, it should improve the existing laws by specifying who has authority to enforce them.*

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As the law now stands, the land-preservation benefit may be lost after eight years. If longer-term land preservation is desirable, the Legislature has options, but they all carry tradeoffs. The Legislature could change existing law to add incentives to attract owners for periods longer than eight years. But this could reduce participation in the programs overall for those who foresee using their lands for alternative purposes at some future time. Changing the programs by focusing incentives on only the best quality farmlands would help preserve high-priority land, but the program still would not assure long-term land preservation, and the change would likely make ineligible certain landowners who have been participating. Increasing the amount of the tax credit may attract additional participants; however, it is uncertain whether even doubling or tripling the \$1.50 per acre tax credit would be sufficient incentive for some areas in light of the market forces that have contributed to declining participation. Adding to the Greater Minnesota program, the benefit of lower “agricultural-use” assessments might increase the number of participants, but it would be useful only in areas where nonagricultural factors are adding to farmland values and would duplicate what the Green Acres Program already offers. As described in Chapter 2, the Department of Revenue is taking steps to expand Green Acres more consistently statewide.

As another option for preserving farmland, the Legislature could modify local land-use planning authority to require a statewide standard on high-priority agricultural lands, but land-use planning has customarily been a local function. Such a change would have far-reaching ramifications on state and local government relations that go beyond the agricultural land preservation programs themselves. It would also require funding to set the standards and enforce them. The Legislature could also offer permanent easements for agricultural lands, add to existing easement programs, or provide for land acquisitions of property that would be leased permanently for agricultural uses. Although these options achieve long-range preservation, they can be very costly and would require funds for program administration as well as for the easements or acquisitions.

To improve the existing agricultural land preservation programs, the Legislature should specify who has enforcement authority and provide sanctions for those who do not follow the law. Although various options are plausible, one possibility would give enforcement authority to the Metropolitan Council for the seven-county metropolitan area and to the Department of Agriculture for the rest of the state. This would not alter local government roles in the land preservation programs but would provide oversight in cases when the covenants are not fulfilled as the law prescribes.

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**The Legislature should provide sanctions for those who violate the legal requirements of agricultural land preservation programs.**

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**Revenues raised from a \$5 fee on mortgage and deed transactions are shared between counties and the state to pay for tax credits provided by the agricultural land preservation programs.**

## CONSERVATION ACCOUNT REVENUES

As specified in law, counties in the seven-county metropolitan area and the three Greater Minnesota counties participating in the Agricultural Land Preservation Program pay for the \$1.50 per acre tax credit awarded to program participants by charging a \$5 fee on mortgage and deed registrations.<sup>9</sup> As Chapter 1 explained, revenues left over in counties' conservation accounts after reimbursing localities for the tax credits may be spent on statutorily-specified purposes. We found that:

- **In a few cases, counties have spent money raised through the farmland preservation programs on natural resource conservation projects that may not meet a strict interpretation of state statutes, but additional oversight is necessary only if the Legislature wants to further restrict the spending.**

In the remainder of this section, we explain how much counties have raised with the \$5 fee and how they spent the revenues. We first present information on the use of the conservation accounts to reimburse tax credits, followed by use of the accounts for spending on other purposes.

### Reimbursements for the Tax Credit

Money from the \$5 fee charged on mortgage and deed recordings and registrations is divided between the state and counties, as Chapter 1 described. The revenues generated go to the state Conservation Fund, the state General Fund, and county conservation accounts. We found that:

- **The combination of county conservation accounts and the state Conservation Fund has been adequate to reimburse tax credits provided to landowners participating in the agricultural land preservation programs.**

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**Every year since 1999, the counties' share of revenues from the \$5 fee has been sufficient to pay for the agricultural land preservation tax credits in six of the nine counties participating in the program.**

In each year since 1999, six of the nine participating counties used their individual county conservation accounts to cover the full cost of the property tax credits paid to program participants. After making reimbursements for property tax credits in 2006, these six counties together with Ramsey County had net revenues of \$916,000 in their conservation accounts, as shown in Table 3.4. The total net revenue declined from \$1.4 million in 2003, when real estate activity was at a peak. While further declines are expected in 2007 and 2008, most of these six county accounts should still have enough revenue to fully reimburse the tax credits. Of the six counties, only Dakota County used more than 25 percent of its conservation account to reimburse tax credits in 2006 (it used 59 percent of conservation account revenue to reimburse credits that year).

For the three counties—Carver, Waseca, and Winona—whose conservation accounts had insufficient revenue to fully reimburse tax credits, the state's Conservation Fund covered the remaining credit reimbursement. The county

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<sup>9</sup> *Minnesota Statutes* 2007, 40A.152, subd. 1.

**Table 3.4: County Conservation Accounts, 2006**

County	County Conservation Account Revenue	Agricultural-Land Preservation Tax Credits Reimbursed From County Account	Amount Left in County Conservation Account	Tax Credits Reimbursed From State Conservation Fund
Anoka	\$ 147,724	\$ 3,210	\$144,514	\$ 0
Carver	38,418	38,418	0	103,409
Dakota	158,890	93,647	65,243	0
Hennepin	419,520	29,114	390,406	0
Ramsey	138,618	0	138,618	0
Scott	60,875	11,034	49,841	0
Waseca	6,025	6,025	0	119,008
Washington	94,823	13,513	81,310	0
Winona	12,845	12,845	0	49,407
Wright	60,675	14,263	46,412	0
Total	\$1,138,413	\$222,069	\$916,344	\$271,824

NOTE: County conservation account revenues include the county share of the \$5 fee on mortgage and deed recordings and registrations for 2005, which are used to pay agricultural preservation tax credits for taxes paid in 2006. No Ramsey County land is enrolled in the Metropolitan Agricultural Preserves Program, but the county is required to charge the \$5 fee.

SOURCE: Office of the Legislative Auditor, analysis of data from the Minnesota Department of Revenue.

**In most years, the state's revenues from the \$5 fee far exceeded what was needed to pay the state's share of tax credit costs from the agricultural land preservation programs.**

conservation accounts covered less than a third of the tax credit reimbursements for each of these three counties. Overall, the Minnesota Conservation Fund paid \$272,000 towards the credit reimbursements in 2006.

In each year except 1987, 1995, and 1996, less than half of the Minnesota Conservation Fund's revenue was needed to supplement the tax-credit reimbursements from county accounts. Focusing on years 2001 through 2006, the state fund paid between \$250,000 and \$300,000 to reimburse the tax credits but had revenues of at least \$569,000. State General Fund money has not been used to supplement the Minnesota Conservation Fund with the exception of fiscal year 1987 when the fund was first established.

## Spending on Natural Resources Conservation

For the six counties that had money remaining in their conservation accounts after reimbursing the farmland preservation tax credits, we reviewed how the remainder was spent in the past five years. As described in Chapter 1, statutes limit spending of the conservation account money to agricultural land preservation and conservation planning, soil conservation, incentives for landowners who create exclusive agricultural land zones, and payments to

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**With money left over after paying for the agricultural land preservation tax credits, counties have generally paid for natural resource management, such as soil conservation activities.**

municipalities for any of these purposes.<sup>10</sup> None of the money was spent on the latter two purposes.

Generally speaking, counties have used the conservation account dollars to help fund their natural resource management entities, such as soil and water conservation districts, which operate multiple projects aimed at conserving natural resources. For example, some of these entities use the money to administer Minnesota's Wetland Conservation Act, which requires a landowner proposing to drain or fill a wetland to, first, avoid losing the wetland or, second, replace it. Although wetlands preservation is not specifically listed among the purposes on which conservation account dollars may be spent, such preservation helps prevent sedimentation of waterways and erosion problems, which we believe can be reasonably defined as "soil conservation activities." In addition, these projects help fulfill one goal of the Agricultural Land Preservation Program in Greater Minnesota: to preserve and conserve soil and water resources. (The Metropolitan Agricultural Preserves Act does not explicitly contain the same goal.)

At the same time, we found that:

- **Some natural resources projects funded with the conservation account dollars appear worthy but only broadly connected to the statutory purposes for the funding.**

These include master gardener programs, educating young people about the role of agriculture in their lives, recording the county history of agriculture, and paying for costs of appraisals and title surveys associated with conservation easements on land being preserved for critical habitat.

No state agency oversees the county conservation accounts. Oversight is provided either by the elected members of the conservation districts, county staff who are separate from the entity doing the spending, or county board members reviewing agency spending through their typical budgeting process. In one county, oversight is delegated to the county's Extension Committee and a subcommittee specifically established by the county board to review and recommend projects for conservation-account spending.

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## RECOMMENDATION

***The Legislature should determine whether spending the mortgage and deed fee revenues on natural resource projects other than agricultural land preservation and soil conservation is unacceptable, and if so, it should change Minnesota Statutes to specify unallowable activities.***

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Although local units of government vary in the degree to which the projects they fund adhere to the statutory purposes for conservation account spending, all are

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<sup>10</sup> *Minnesota Statutes* 2007, 40A.152, subd. 2(1)-(4).

putting the dollars toward projects related to agriculture or natural resources conservation. If the Legislature wants to restrict uses of the money to just the purposes stated in law, it will need to add specific language clarifying what projects are unacceptable for funding. One problem with more specific language is that it may not reflect particular projects that are designed to meet local needs and that local officials have judged to be justifiable.

# Discussion

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## SUMMARY

*Collectively, the Green Acres Program and the Metropolitan Agricultural Preserves Program effectively equalize tax burdens. The Agricultural Land Preservation Program in Greater Minnesota provides only minimal tax equalization. Although the agricultural land preservation programs have had some success in shaping development and slowing its rate, neither program, nor the Green Acres Program, assures long-term preservation of agricultural land. If the state's goal is permanent preservation, it must consider supplementing existing programs with other approaches.*

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The three agriculture protection programs described in this report operate independently of one another, and we evaluated them individually. In this chapter, we address:

- **Taken as a group, how well do the Green Acres, Metropolitan Agricultural Preserves, and Agricultural Land Preservation programs work?**

In looking at the three programs together, we note that measuring the value of a program depends on what the state is trying to achieve. If the objective is to reduce property taxes, a different strategy is needed than if the objective is to preserve land for the long term. We look first at how well the programs equalize taxes and second at farmland preservation.

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**The programs help equalize taxes for qualifying landowners.**

First, as we pointed out in earlier chapters, both the Green Acres and Metropolitan Agricultural Preserves programs help equalize taxes by lowering the taxable value of qualifying land. (The Agricultural Land Preservation Program in Greater Minnesota does not have this feature.)<sup>1</sup> But, the programs do not apply to all agricultural land in the state. To benefit, landowners have to apply, and they must meet eligibility requirements.

If Minnesota had wanted to provide tax reductions to farmland around the state, it would have done so with programs that are open to all farmland owners instead of to a select number. The property tax system has features that are available to all farmland owners, such as the low class rates that are applied to all land classified as agricultural. The Legislature did not intend the benefits of the Green Acres and farm preservation programs, however, to be equally available to all. As long as this is the case, the programs will continue to have eligibility criteria (and local administrators will face the attendant problems of determining who is qualified), and a select group will receive the tax relief.

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<sup>1</sup> Some land in the Agricultural Land Preservation Program in Winona and Wright counties has also been enrolled in the Green Acres Program and, therefore, receives the lower taxable value.

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**None of the programs effectively preserves agricultural land for the long term, but alternatives are costly.**

Second, regarding the objective of farmland preservation, none of the three programs we evaluated is structured to preserve agricultural land for the long-term future. Where they are in place, the two agricultural land preservation programs help communities and landowners stage the pace of development, but their effect is limited because relatively few acres have been enrolled overall, they are not designed for long-term preservation, and they depend on the willingness of landowners and local officials to continue preserving the land. Whether the Green Acres Program's goal is to preserve farmland is not clear in law, but if preservation is a goal, the program would have to change to more effectively achieve preservation, as Chapter 2 describes. We believe it is important to modify the existing programs to make them as fair and effective as possible. Chapters 2 and 3 contain recommendations that we think will help do this. Incremental changes to the programs, however, will not change the basic fact that they operate within markets over which government has little direct control. Unless the programs are dramatically changed, they will not provide enough incentive to outweigh the land value increases evident in developing areas. The benefit amounts would have to be large enough to compensate for the speculative value of land that leads to land sales for tens of thousands of dollars per acre.

Furthermore, if the state's goal is permanent preservation, it has to consider alternatives such as land easements, which may involve purchasing development rights from current owners, or outright land acquisitions. The programs would have to be designed for permanent protection and could not rely on 20-year easements, as is allowed in certain programs today, such as some components of the Reinvest in Minnesota program. Permanent preservation, however, is costly. Programs elsewhere to purchase development rights have resulted in low numbers of acres preserved, due in large part to high costs.

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**We do not recommend dismantling the existing programs.**

We are not recommending that the existing Green Acres and agricultural land preservation programs be dismantled. As long as the state believes it is important to equalize certain landowners' property tax burdens, the Green Acres and Metropolitan Agricultural Preserves programs serve a purpose. To far less of a degree, the land preservation program in Greater Minnesota helps serve that purpose. At the same time, it is important to recognize that the programs are not structured as tax relief for all farmers, and there are questions about whether their goals support providing the relief to all who now benefit. Regarding land preservation, the programs have limited effects of a short- to medium-term nature. The land preservation programs curb the rate of development and can help shape it, but none of the three programs we evaluated assures land preservation for the long term, and the Green Acres Program in particular is not targeted to lands important to preserve.

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# List of Recommendations

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- The Legislature should clarify in statute who and what types of land should benefit from the Green Acres Program (p. 38).
- The Legislature should change the Green Acres law by eliminating the criterion for a minimum income level if it also adds specificity to statutes for classifying property as agricultural and defining land that is “primarily” agricultural (p. 42).
- The Department of Revenue should continue its efforts to make the Green Acres Program more consistent statewide. At the same time, it should make some changes including modifying its statewide approach for valuing nontillable land in the program (p. 50).
- If Minnesota wishes to preserve lands for agricultural uses over the long term, the Legislature should consider supplementing existing agricultural land preservation programs with other strategies. Furthermore, it should improve the existing laws by specifying who has authority to enforce them (p. 62).
- The Legislature should determine whether spending the mortgage and deed fee revenues on natural resource projects other than agricultural land preservation and soil conservation is unacceptable, and if so, it should change Minnesota Statutes to specify unallowable activities (p. 65).



# MINNESOTA · REVENUE

January 24, 2008

James R. Nobles  
Legislative Auditor  
Office of the Legislative Auditor  
658 Cedar Street  
140 Centennial Office Building  
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles:

We thank the Office of Legislative Auditor for its thoughtful review and analysis of the Green Acres and Agricultural Land Preservation Programs. We agree with the report's findings and fully support the recommendations.

Of particular interest to the Department is the first recommendation which states that "***The Legislature should clarify who and what types of properties should benefit from the Green Acres Program.***" We feel that this is a very important and necessary recommendation. Clarification of legislative intent will greatly assist the department and the counties to establish appropriate and consistent definitions and criteria for program eligibility and better ensure uniformity in program implementation throughout the state.

The report appropriately identifies several policy questions that need to be clarified. These include:

1. Is the program's primary purpose to "equalize" taxes on property used for agricultural purposes or is it also to preserve agricultural land?
2. To what extent should the program provide a benefit to land that is used for only "agricultural" purposes and to adjacent land that is used for hunting and recreation?
3. Should eligibility for the program be based on the characteristics and use of the land (such as acres tilled or "primarily tilled) and/or on the characteristics of the owner (such as the owner's farm income)?

This past year, the Department and county assessors worked together to develop and issue a revised Green Acres Bulletin which establishes eligibility criteria and administrative guidelines for the Green Acres Program and agricultural definitions that best reflect our interpretation of current law. In preparing the bulletin we quickly discovered the differences in practices throughout the state and the difficulty in reaching agreement on policy directives in the absence of more clarity regarding legislative purpose and intent. As a result, we issued the bulletin with an effective date of 2009 and

identified the following six policy issues that merit legislative review and policy clarification:

1. Development and implementation of a new “green acres agricultural” valuation methodology for tillable and non-tillable land;
2. Clarification of the phrase “exclusively and intensively used for agricultural purposes” in order for parcels less than ten acres to qualify for an agricultural classification;
3. Clarification of the phrase “primarily devoted to agricultural use”;
4. Whether or not splitting the classification of a parcel between residential and agricultural use should be allowed, and if so, under what circumstances;
5. Whether or not qualifying “farm” income thresholds should be changed; and
6. Whether or not the payback provisions should be extended for more than three years.

If the legislature can clarify the policy direction and legislative intent for the Green Acres Program, the department and county assessors will work together to address the specific policy issues and improve the administration of Green Acres Program.

Again, we want to thank the OLA for their review and analysis of the Green Acre and Agricultural Land Preservation Programs and we look forward to working with the legislature, county commissioners and assessors in addressing the recommendations of the report.

Sincerely,



Ward Einess  
Commissioner

January 25, 2008

James Nobles  
Legislative Auditor  
Room 140 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603

Dear Mr. Nobles:

The report, *"Green Acres" and Agricultural Land Preservation Programs* provides a solid foundation for further discussions about agricultural land preservation in Minnesota. The report accurately describes the Green Acres and agricultural land preservation programs and documents important trends in assessors land classifications, agricultural land loss, and program participation. It also begins to show the complexity of the issue of agricultural land preservation and how it fits into broader policy issues of land use and growth.

We agree with the overall thrust of the report's recommendations. For Green Acres, the question of who the program benefits needs to be examined, and eligibility requirements may need to be adjusted. Green Acres provides tax breaks to some landowners with questionable agricultural land use, yet the risk of tightening requirements is the removal of those very same tax breaks that are still needed for legitimate and valuable agricultural enterprises, such as fruit and vegetable farms.

Current agricultural land preservation programs may need to be supplemented to provide longer-term protection to agricultural land. The Metropolitan and Greater Minnesota agricultural land preservation programs are important tools for protecting agricultural land and shaping growth, and should be supported and strengthened.

Based on our experience agricultural land is best preserved through use of a variety of tools. The Minnesota "toolbox" includes a differential tax assessment program (Green Acres), agricultural planning and zoning, agricultural districting programs (the Metropolitan Agricultural Land Presentation Program and the Greater Minnesota program), purchase of development rights programs (PDR, e.g., the Dakota County Farmland and Natural Areas Program), and transfer of development rights programs (TDR, such as the Chisago County program).

James Nobles, Legislative Auditor

January 25, 2008

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PDR and TDR programs offer perpetual or very long-term protection of agricultural land. However, because of the high cost of development rights purchase, the acreage that can feasibly be protected is relatively small. The programs, therefore, must be targeted to protect the land in greatest need of preservation.

Differential taxation has a place in the land preservation arsenal by allowing farmers to weather increasing land values and assessments caused by non-agricultural influences such as in areas of transition to urban uses. This is particularly important to specialty crop operations.

To affect much larger areas, and to shape growth, less expensive and less complicated tools are needed, such as agricultural zoning and districting. The backbone of effective agricultural land preservation and growth control is guided by good planning and agricultural zoning. Although agricultural zoning can be changed, agricultural districts help to bolster and stabilize agricultural zones, and build support among farmers.

The Legislative Audit Report provides a solid starting point for further discussion of the issue, in which MDA wants to be an integral part.

Sincerely,



Gene Hugoson  
Commissioner

GH:AgD:bp

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