



“Green Acres” and Agricultural Land Preservation Programs

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.
- 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.
- 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eligibility criteria, including the income threshold and definition of land that is “primarily” agricultural, are outdated, difficult to implement fairly, or create inequities.
- 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.
- 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.
- 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.

Recommendations:

- The Legislature should clarify who and what types of properties should benefit from the Green Acres Program.
- 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.
- 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.
- 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.
- 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.

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 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.

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

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.

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 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.

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

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

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.

Summary of Agency Responses

In a letter dated January 24, 2008, Minnesota Department of Revenue Commissioner Ward Einess wrote that the department agrees with the report’s findings and supports its recommendations. He emphasized the importance of having the Legislature clarify who and what types of properties should benefit from the Green Acres Program. As one example, he asked to what extent is the program intended to benefit land used for hunting or other recreation when it is adjacent to farmland. He wrote that clarification of legislative intent would help the department and counties establish “appropriate and consistent definitions and criteria for program eligibility. . . .” Further, he identified issues, such as whether Green Acres is intended to preserve agricultural land, that need legislative clarification.

Minnesota Department of Agriculture Commissioner Gene Hugoson wrote January 25, 2008, that the department agrees with the “overall thrust of the report’s recommendations.” He urged supporting and strengthening the agricultural land preservation programs as “important tools for protecting agricultural land.” Beyond that, he said that agricultural land is best served by a variety of tools. This includes the Green Acres program, which he said is particularly important to specialty crop operations. Other important tools he identified are agricultural planning and zoning, the farmland preservation programs, and purchasing or transferring development rights from agricultural land owners.

The full evaluation report, “Green Acres” and Agricultural Land Preservation Programs, is available at 651-296-4708 or:

www.auditor.leg.state.mn.us/ped/2008/greenacres.htm