State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0203/1
RCT&MES:cjs:ph

DOA:.....Miner, BB0112 - Change farmland preservation program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** farmland preservation, the farmland preservation tax credit, the farmland tax relief credit, making an appropriation, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

AGRICULTURE

FARMLAND PRESERVATION PROGRAM

General

This bill makes numerous changes in the Farmland Preservation Program, which contains some of the requirements that a farmer must meet to qualify for the farmland preservation tax credit. The Farmland Preservation Program includes farmland preservation planning, farmland preservation zoning, farmland preservation agreements, and soil and water conservation requirements.

Under current law, for a farmer to qualify for the farmland preservation tax credit the farm must be in a zoning district zoned exclusively for agriculture under a zoning ordinance certified by the Land and Water Conservation Board (LWCB) or be covered by a farmland preservation agreement executed by DATCP, or both. In order for DATCP to enter into a farmland preservation agreement, the county in which the farmer lives must have a farmland preservation plan that is certified by LWCB.

Under the bill, DATCP certifies farmland preservation plans and zoning ordinances.

Farmland preservation planning

This bill requires every county to adopt a farmland preservation plan. The bill does not require that a county get its plan certified, but if a county does not have a certified plan, a farmer in the county is ineligible for the farmland preservation tax credit, unless the farm is covered by a farmland preservation agreement entered into before the bill becomes law.

The bill provides that the certifications of current farmland preservation plans expire according to a schedule specified in the bill, except for certifications that currently contain expiration dates. The expiration dates in the bill range from December 31, 2011, to December 31, 2015. The higher increase in the population per square mile of a county, the sooner its farmland preservation plan certification expires. A county must submit an updated farmland preservation plan that meets the requirements in the bill and get it certified by DATCP to enable to farmers in the county to continue to claim the farmland preservation tax credit. Under the bill, DATCP must certify a plan for a period of not more than ten years.

The bill requires a county to include all of the following in its farmland preservation plan:

1. A statement of the county's policy and goals related to farmland preservation and agricultural development.

2. A description of trends and plans related to development that may affect farmland preservation and agricultural development.

3. A description of current agricultural uses of land in the county; agricultural resources, such as available land and water; agricultural infrastructure, such as processing and transportation facilities; trends in the county related to agricultural land use; and actions that the county will take to preserve farmland and promote agricultural development.

4. An identification of farmland preservation areas, which are areas that the county plans to preserve for agricultural use and for related uses, such as facilities for processing agricultural products or agricultural waste.

The bill requires a county that has a comprehensive plan (including what is commonly known as a smart growth plan) to ensure that the farmland preservation plan is consistent with its comprehensive plan.

The bill requires a county seeking to have DATCP certify its farmland preservation plan to submit the plan and related information to DATCP. The county must certify that the plan complies with the requirements in the bill. DATCP may certify the plan based on the county's certification or may review the plan and determine whether it does comply with those requirements. The bill requires a county with a certified farmland preservation plan to submit any amendments to the plan to DATCP for certification.

The bill establishes a program under which DATCP awards planning grants to counties. A grant may reimburse a county for up to 50 percent of the cost of preparing a farmland preservation plan. DATCP may not distribute more than 50 percent of a grant before the county submits the plan to DATCP for certification.

Farmland preservation zoning

Under this bill, as under current law, a city, village, town, or county (political subdivision) may adopt a zoning ordinance that enables farmers to be eligible for the farmland preservation tax credit.

The bill provides that certifications of current farmland preservation zoning ordinances expire according to a schedule specified in the bill, except for certifications that currently contain expiration dates. The dates range from December 31, 2012, to December 31, 2016. The higher the increase in population per square mile of a political subdivision, the sooner its certification expires. A political subdivision must submit an updated farmland preservation zoning ordinance that meets the requirements in the bill and have it certified by DATCP to enable the farmers in the political subdivision to continue to claim the farmland preservation tax credit based on the zoning ordinance. Under the bill, DATCP must certify a zoning ordinance for a period of not more than ten years.

Under the bill, to be eligible for certification, a farmland preservation zoning ordinance must be substantially consistent with a certified county farmland preservation ordinance.

Under current law, land in a farmland preservation zoning district must be limited to agricultural use, with certain exceptions. Current law allows, as conditional uses, agriculturally related, religious, utility, institutional, or governmental uses that are consistent with agricultural use and are necessary in light of alternative locations available. Family farm businesses may also be allowed, with a conditional use permit, if they are conducted in existing structures.

Under the bill, in addition to agricultural uses, a political subdivision may allow accessory uses and agriculture-related uses in a farmland preservation zoning district with a conditional use permit. Accessory uses are conducted on a farm and include uses that are incidental to agricultural uses and family farm businesses. Agriculture-related uses include businesses that sell farm equipment or supplies and businesses that store or process agricultural products or that process agricultural wastes. A political subdivision may also include undeveloped natural resource and open space areas in a farmland preservation zoning district. DATCP may promulgate rules that specify additional uses that may be allowed in farmland preservation districts without a conditional use permit.

The bill also specifies other uses that may be allowed in a farmland preservation zoning district with a conditional use permit. Generally, transportation, communications, utility, governmental, institutional, religious, and nonprofit community uses are in this category if the political subdivision makes certain determinations. The determinations include that the proposed use and its location in the zoning district are reasonable and appropriate, considering alternative locations, that the use is reasonably designed to minimize the conversion of land from agricultural use or open space, and that the use does not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use.

Current law requires a political subdivision to specify a minimum lot size for farmland preservation zoning districts. This bill eliminates that requirement.

This bill provides two methods for political subdivisions to allow the construction of nonfarm residences in farmland preservation zoning districts. A political subdivision may issue a conditional use permit for the construction of one nonfarm residence if several requirements are satisfied. The requirements include that the ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence will be located will not be greater that 1 to 20 after the residence is constructed and that there will not be more than four nonfarm dwelling units, nor five dwelling units of any kind, on the base farm tract after the nonfarm residence is constructed. A base farm tract is all of the land, whether one parcel or two or more contiguous parcels, that is in a farmland preservation zoning district and is part of a single farm when DATCP first certifies the updated farmland preservation zoning ordinance.

The bill also authorizes a political subdivision to issue a conditional use permit that covers more than one nonfarm residence in what is called a nonfarm residential cluster. The parcels on which the nonfarm residences would be constructed must be contiguous and the political subdivision must ensure that if all of the nonfarm residences were constructed, each would satisfy the conditions described above for approval of one nonfarm residence.

The bill requires a political subdivision seeking to have DATCP certify its farmland preservation zoning ordinance to submit the ordinance and related information to DATCP. The political subdivision must certify that the ordinance complies with the requirements in this bill. DATCP may certify the ordinance based on the political subdivision's certification or may review the ordinance and determine whether it does comply with those requirements.

Under current law, a political subdivision may rezone land out of a farmland preservation zoning district only after making findings based on consideration of whether adequate public facilities exist or will be provided to accommodate development, whether providing public facilities to accommodate development will place an unreasonable burden on affected local governments, whether the land proposed for rezoning is suitable for development, and whether development will cause undue water or air pollution or unreasonably adverse effects on rare natural areas. The law requires political subdivisions to notify DATCP when they rezone land out of a farmland preservation district.

Under the bill, in order to rezone land out of a farmland preservation zoning district, a political subdivision must make a number of findings, including that the land is better suited for a use not allowed in a farmland preservation zoning district, that the rezoning is substantially consistent with the certified county farmland preservation plan, and that the rezoning will not not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use. The bill does not require a political subdivision to report each rezoning, but it does require an annual report of the amount and location of land that was rezoned.

Under current law, when property is rezoned out of a farmland preservation zoning district, DATCP is required to place a lien on the rezoned land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner of the land during the preceding ten years plus

interest. The law also requires DATCP to file a lien when a conditional use permit is granted for a use that is not an agricultural use.

The bill eliminates the lien requirements. Under the bill, a political subdivision may not rezone land out of a farmland preservation zoning district until the owner of the land makes a payment to the political subdivision equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment. A political subdivision must annually pay this amount to DATCP for each parcel of land that it rezones. A political subdivision may require a higher payment for rezoning and retain the amount in excess of what it must pay to DATCP.

Under the bill, most amendments to a certified farmland preservation zoning ordinance are automatically considered to be certified. An amendment that is a comprehensive revision of the ordinance or an amendment that extends coverage of an ordinance to a town that was not previously covered is not automatically considered to be certified, and DATCP may specify other types of amendments that are not automatically considered to be certified.

Farmland preservation agreements

Under current law, DATCP enters into farmland preservation agreements with farmers in counties with certified farmland preservation plans. To qualify for coverage under an agreement, the land must consist of at least 35 acres and produce a specified amount of farm profits and must be in an agricultural preservation planning area or in a farmland preservation zoning district under a certified ordinance. An agreement requires the landowner to maintain the land in agricultural use for a term specified in the agreement, except that DATCP may release land from the agreement under specified circumstances. The term of a farmland preservation agreement must be from ten to 25 years, subject to renewal for additional ten- to 25-year terms.

This bill prohibits DATCP from renewing current farmland preservation agreements. The bill authorizes DATCP to enter into a new farmland preservation agreement only for land that is in an agricultural enterprise area, designated by DATCP using the current statutory procedure for promulgating emergency rules. To qualify for coverage by a farmland preservation agreement, land must produce a specified amount of gross farm revenues. A farmland preservation agreement must be for a term of at least 15 years.

Under the bill, DATCP may not designate agricultural enterprise areas with a combined area of more than 1,000,000 acres and, before January 1, 2012, may not designate agricultural enterprise areas with a combined area of more than 200,000 acres. DATCP may not designate an area as an agricultural enterprise area unless it is entirely located in a farmland preservation area identified in a certified farmland preservation plan and it is primarily in agricultural use. DATCP may not designate an area as an agricultural enterprise area unless it receives a petition requesting the designation filed by each political subdivision in which any part of the area is located and by the owners of at least five farms that would be eligible for coverage by farmland preservation agreements.

Current law specifies situations in which DATCP may release land from, or terminate, a farmland preservation agreement. Generally, when land is released or an agreement is terminated DATCP is required to place a lien on the land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner during the preceding ten years plus interest.

This bill eliminates the lien requirement. Under the bill, DATCP may release land from, or terminate, a farmland preservation agreement if it finds that the termination or release will not impair or limit agricultural use of other farmland that is covered by an agreement or is in a farmland preservation zoning district and if the owner of the land pays to DATCP an amount equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment.

Soil and water conservation

Current law requires counties to establish soil and water conservation standards. The county must have the standards approved by LWCB in order for farmers in the county to be eligible for farmland preservation tax credits. The law requires a county to monitor compliance with its soil and water conservation standards. If a county determines that a farmer violates the standards, it must issue a notice of noncompliance to the farmer. As long as a farmer is out of compliance with the county standards, the farmer is ineligible for the farmland preservation tax credit.

This bill eliminates the requirement that each county establish soil and water conservation standards. Under the bill, a farmer must comply with land and water conservation standards that DATCP has promulgated under other current laws. The bill continues the requirement that a county monitor compliance with the standards and specifically requires a county to inspect each farm for which the owner claims farmland preservation tax credits at least once every four years. The bill also requires farmers to certify compliance annually. The bill requires DATCP to review county compliance with the monitoring requirement. The bill requires a county to issue a notice of noncompliance if it determines that a farmer violates the standards or fails to certify compliance. The county must provide a copy of each notice to DOR. As long as a farmer is out of compliance with DATCP's standards, the farmer is ineligible for the farmland preservation tax credit.

For a description of the changes in the farmland preservation tax credit, please see "TAXATION."

TAXATION

INCOME TAXATION

Under current law, an eligible claimant may recover a certain amount of property taxes paid through the refundable farmland preservation tax credit. A refundable tax credit means that, if the amount of the credit which is otherwise due an eligible claimant exceeds the claimant's tax liability, or if there is no outstanding tax liability, the excess amount of the credit is paid to the claimant by check.

One of the current law eligibility requirements for the farmland preservation tax credit is that the farmland to which the claim relates be subject either to a farmland preservation agreement or to a county exclusive agricultural use zoning ordinance. A farmland preservation agreement and an exclusive agricultural use zoning ordinance require the claimant to abide by certain soil and water conservation standards. A farmland preservation agreement is generally entered into for a term of 10 to 25 years, although the parties may agree to relinquish the agreement under certain circumstances.

The credit is computed under a formula that is based on property taxes accrued on the claimant's farmland in the preceding calendar year, the claimant's household income, and the agreement, planning, or zoning provisions that cover the farmland. The maximum credit that a claimant is eligible for is $4,200, and the minimum credit that an eligible claimant may receive is $600. The maximum credit for which the claimant is otherwise eligible is reduced based on the zoning ordinances that are in effect in the county in which the farmland is located, although the minimum credit is never less than $600 for an eligible claimant.

Under this bill, no new claims may be filed for taxable years beginning after December 31, 2009, but an otherwise eligible claimant who is subject to a farmland preservation agreement that is in effect on January 1, 2010, may continue to file a claim for the credit until the agreement expires.

This bill also creates a new farmland preservation credit which is refundable. The credit is funded from the lottery fund, up to approximately $15,000,000 of claims, and any excess claims, up to approximately $12,280,000 are funded from the general fund. Under the bill, the maximum amount of credits that may be claimed each year may not exceed $27,280,000. If the total amount of eligible claims exceed $27,280,00, DOR is required to prorate the credits. per acre amounts (see below)

pay the excess claims in the next subsequent fiscal year and

to account for prior year claims that are paid in the year subsequent to that year. If a claimant's payment is so delayed the claimant may not receive any interest on his delayed payment, on any other refund.

The new farmland preservation credit is calculated by multiplying a claimant's qualifying acres (QA) by one of the following amounts: $10, if the QA are in a farmland preservation zoning district and are subject to a new farmland preservation agreement (FPA), meaning a FPA that was entered into after the effective date of the bill; $7.50 if the QA are located in a farmland preservation zoning district, but are not subject to a new FPA; or $5.00 if the QA are subject to a new FPA, but are not located in a farmland preservation zoning district.

Generally, the bill defines QA as the number of acres of farm that correlate to a claimant's percentage of ownership interest in a farm, the extent to which the farm is covered by a new FPA, and whether the farm is in farmland preservation zoning district. For a description of the requirements of a new FPA, see "AGRICULTURE."

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (7) (dm) of the statutes is created to read:

1 20.115 **(7)** (dm) *Farmland preservation planning grants.* The amounts in the
2 schedule for farmland preservation planning grants under s. 91.10 (6). No moneys
3 may be encumbered under this paragraph after June 30, 2016.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 2.** 20.115 (7) (tb) of the statutes is created to read:

5 20.115 **(7)** (tb) *Principal and interest; agricultural conservation easements,*
6 *working lands fund.* From the working lands fund, the amounts in the schedule to
7 reimburse s. 20.866 (1) (u) for the principal and interest costs incurred in purchasing
8 agricultural conservation easements under s. 93.73, to make the payments
9 determined by the building commission under s. 13.488 (1) (m) that are attributable
10 to the proceeds of obligations incurred to purchase those easements, and to make
11 payments under an agreement or ancillary arrangement entered into under s. 18.06
12 (8) (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be deleted.

13 **SECTION 3.** 20.115 (7) (tg) of the statutes is created to read:

14 20.115 **(7)** (tg) *Agricultural conservation easements.* From the working lands
15 fund, the amounts in the schedule for the purchase of agricultural conservation
16 easements under s. 93.73.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be deleted.

17 **SECTION 4.** 20.115 (7) (tm) of the statutes is created to read:

1 20.115 **(7)** (tm) *Farmland preservation planning grants, working lands fund.*
2 From the working lands fund, the amounts in the schedule for farmland preservation
3 planning grants under s. 91.10 (6).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 5.** 20.115 (7) (ts) of the statutes is created to read:
5 20.115 **(7)** (ts) *Working lands programs.* From the working lands fund, the
6 amounts in the schedule for administration of the farmland preservation program
7 under ch. 91 and the program to purchase conservation easements under s. 93.73.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This reference in this SECTION to s. 93.73 depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be modified.

8 **SECTION 6.** 20.566 (1) (t) of the statutes is created to read:
9 20.566 **(1)** (t) *Farmland preservation credit, 2010 and beyond.* From the
10 working lands fund, the amounts in the schedule for administration of the farmland
11 preservation tax credit under s. 71.613.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

12 **SECTION 7.** 20.835 (2) (d) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13 **SECTION 8.** 20.835 (2) (dm) of the statutes is amended to read:
14 20.835 **(2)** (dm) *Farmland preservation credit.* A sum sufficient to pay the
15 aggregate claims approved under ~~subch. IX of ch. 71~~ ss. 71.57 to 71.61.
16 **SECTION 9.** 20.835 (2) (do) of the statutes is created to read:
17 20.835 **(2)** (do) *Farmland preservation credit, 2010 and beyond.* The amounts
18 in the schedule to pay the aggregate claims approved under s. 71.613 (2), to the extent
19 that these claims are not paid under par. (qb).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 10. 20.835 (2) (q) of the statutes is amended to read:

20.835 **(2)** (q) *Farmland tax relief credit.* From the lottery fund, a sum sufficient to pay the aggregate claims approved under ss. 71.07 (3m) (c), 71.28 (2m) (c), and 71.47 (2m) (c), to the extent that these claims are not paid under par. (ka). No moneys may be encumbered or expended from this appropriation account during 1999-00, or for a taxable year that begins after December 31, 2009.

SECTION 11. 20.835 (2) (qb) of the statutes is created to read:

20.835 **(2)** (qb) *Farmland preservation credit, 2010 and beyond; lottery fund.* From the lottery fund, the amounts in the schedule to pay the aggregate claims approved under s. 71.613 (2).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 12. 20.866 (1) (u) of the statutes is amended to read:

20.866 **(1)** (u) *Principal repayment and interest.* A sum sufficient from moneys appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b), (f), ~~and~~, (s), and (tb), 20.190 (1) (c), (d), (i), and (j), 20.225 (1) (c) and (i), 20.245 (1) (e) and (j), 20.250 (1) (c) and (e), 20.255 (1) (d), 20.285 (1) (d), (db), (im), (in), (je), (jq), (kd), (km), and (ko) and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag), (aq), (ar), (at), (au), (bq), (br), (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ea), (eq), and (er), 20.395 (6) (af), (aq), (ar), and (au), 20.410 (1) (e), (ec), and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1) (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (4) (es), (et), (ha), and (hb) and (5) (c), (g), (kc), and (kd), 20.855 (8) (a), and 20.867 (1) (a) and (b) and (3) (a), (b), (bm), (bn), (bp), (bq), (br), (bu), (bv), (g), (h), (i), and (q) for the payment of principal, interest, premium due, if any, and payment due, if any, under an agreement or

ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt contracted under subchs. I and IV of ch. 18.

SECTION 13. 23.094 (2) (c) 3. of the statutes is repealed.

SECTION 14. 25.17 (1) (yx) of the statutes is created to read:

25.17 **(1)** (yx) Working lands fund (s. 25.466);

SECTION 15. 25.466 of the statutes is created to read:

25.466 Working lands fund. There is created a separate trust fund designated as the working lands fund, consisting of all moneys received under ss. 91.48 (2) (c) and 91.66 (1) (c).

SECTION 16. 30.29 (3) (b) of the statutes is amended to read:

30.29 **(3)** (b) *Agriculture activities.* A person operating a motor vehicle while the person is engaged in agricultural use, as defined under s. 91.01 ~~(1)~~ (2).

SECTION 17. 32.035 (1) (b) of the statutes is amended to read:

32.035 **(1)** (b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 ~~(1)~~ (2), for sale and home use, and customarily producing the commodities in sufficient quantity to be capable of contributing materially to the operator's support.

SECTION 18. 66.0307 (7m) of the statutes is amended to read:

66.0307 **(7m)** ZONING IN TOWN TERRITORY. If a town is a party to a cooperative plan with a city or village, the town and city or village may agree, as part of the cooperative plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The exercise of zoning authority by a town under this subsection is not subject to s. 60.61 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory

covered by the plan, that ordinance and amendments to it continue until a zoning ordinance is adopted under this subsection. If a zoning ordinance is adopted under this subsection, that zoning ordinance continues in effect after the planning period ceases until a different zoning ordinance for the territory is adopted under other applicable law. This subsection does not affect zoning ordinances adopted under ~~ss.~~ s. 59.692~~,~~ or 87.30 or ~~91.71 to 91.78~~ ch. 91.

SECTION 19. 66.0721 (1) (a) of the statutes is amended to read:

66.0721 **(1)** (a) "Agricultural use" has the meaning given in s. 91.01 ~~(1)~~ (2) and includes any additional agricultural uses of land, as determined by the town sanitary district or town.

SECTION 20. 66.0721 (1) (b) of the statutes is amended to read:

66.0721 **(1)** (b) "Eligible farmland" means ~~a parcel of 35 or more acres of contiguous~~ land ~~which is devoted exclusively to agricultural use which during the year preceding the year in which the land is subject to a special assessment under this section produced gross farm profits, as defined in s. 71.58 (4), of not less than $6,000 or which, during the 3 years preceding the year in which the land is subject to a special assessment under this section, produced gross farm profits, as defined in s. 71.58 (4), of not less than $18,000~~ that is eligible for farmland preservation tax credits under ss. 71.58 to 71.61 or 71.613.

SECTION 21. 71.07 (2fd) of the statutes is repealed.

SECTION 22. 71.07 (3m) (a) 1. (intro.) of the statutes is amended to read:

71.07 **(3m)** (a) 1. (intro.) "Claimant" means an owner ~~of farmland~~, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

SECTION 23. 71.07 (3m) (a) 3. of the statutes is amended to read:

71.07 **(3m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 24. 71.07 (3m) (a) 4. of the statutes is amended to read:

71.07 **(3m)** (a) 4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

SECTION 25. 71.07 (3m) (e) of the statutes is created to read:

71.07 **(3m)** (e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

SECTION 26. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3p), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj),

(1dL), (1ds), ~~(1dx), (1fd),~~ (2m), (3), (3n), (3t), and (3w), ~~and~~ 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), ~~(1fd),~~ (2m), (3), ~~(3n)~~, (3t), and (3w), ~~and subchs.~~ 71.57 to 71.61, and 71.613 and subch. ~~VIII and IX~~ and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 27. 71.10 (4) (i) of the statutes is amended to read:

71.10 **(4)** (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ~~subch. IX~~ ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), ~~farmers' drought property tax credit under s. 71.07 (2fd),~~ dairy manufacturing facility investment credit under s. 71.07 (3p), film production services credit under s. 71.07 (5f) (b) 2., veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 28. 71.28 (1fd) of the statutes is repealed.

SECTION 29. 71.28 (2m) (a) 1. (intro.) of the statutes is amended to read:

71.28 **(2m)** (a) 1. (intro.) "Claimant" means an owner ~~of farmland~~, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

SECTION 30. 71.28 (2m) (a) 3. of the statutes is amended to read:

71.28 **(2m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during

the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 31. 71.28 (2m) (a) 4. of the statutes is amended to read:

71.28 **(2m)** (a) 4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

SECTION 32. 71.28 (2m) (e) of the statutes is created to read:

71.28 **(2m)** (e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

~~**SECTION 33.** 71.30 (3) (f) of the statutes is amended to read:~~

~~71.30 **(3)** (f) The total of farmers' drought property tax credit under s. 71.28 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p), enterprise zone jobs credit under s. 71.28 (3w), film production services credit under s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.29.~~

SECTION 34. 71.47 (1fd) of the statutes is repealed.

SECTION 35. 71.47 (2m) (a) 1. (intro.) of the statutes is amended to read:

71.47 **(2m)** (a) 1. (intro.) "Claimant" means an owner ~~of farmland~~, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

SECTION 36. 71.47 (2m) (a) 3. of the statutes is amended to read:

71.47 **(2m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 37. 71.47 (2m) (a) 4. of the statutes is amended to read:

71.47 **(2m)** (a) 4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

SECTION 38. 71.47 (2m) (e) of the statutes is created to read:

71.47 **(2m)** (e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

~~**SECTION 39.** 71.49 (1) (f) of the statutes is amended to read:~~

71.49 **(1)** (f) ~~The total of farmers' drought property tax credit under s. 71.47 (1fd),~~ farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p), enterprise zone jobs credit under s. 71.47 (3w), film production services credit under s. 71.47 (5f) (b) 2., and estimated tax payments under s. 71.48.

SECTION 40. 71.57 of the statutes is amended to read:

71.57 Purpose. The purpose of ~~this subchapter~~ ss. 71.58 to 71.61 is to provide credit to owners of farmland which is subject to agricultural use restrictions, through a system of income or franchise tax credits and refunds and appropriations from the general fund.

SECTION 41. 71.58 (intro.) of the statutes is amended to read:

71.58 Definitions. (intro.) In ~~this subchapter~~ ss. 71.57 to 71.61:

SECTION 42. 71.58 (1) (intro.) of the statutes is amended to read:

71.58 **(1)** (intro.) "Claimant" means an owner ~~of farmland~~, as defined in s. 91.01 (9), 2007 stats., of farmland, domiciled in this state during the entire year for which a credit under ~~this subchapter~~ ss. 71.57 to 71.61 is claimed, except as follows:

SECTION 43. 71.58 (1) (b) of the statutes is amended to read:

71.58 **(1)** (b) If any person in a household has claimed or will claim credit under subch. VIII, all persons from that household are ineligible to claim any credit under ~~this subchapter~~ ss. 71.57 to 71.61 for the year to which the credit under subch. VIII pertained.

SECTION 44. 71.58 (1) (d) of the statutes is amended to read:

71.58 **(1)** (d) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to 71.61, the personal representative of an estate and the trustee of a trust shall be deemed owners of farmland. "Claimant" does not include the estate of a person who

is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

SECTION 45. 71.58 (1) (e) of the statutes is amended to read:

71.58 **(1)** (e) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to 71.61, when land is subject to a land contract, the claimant shall be the vendee under the contract.

SECTION 46. 71.58 (1) (f) of the statutes is amended to read:

71.58 **(1)** (f) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to 71.61, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

SECTION 47. 71.58 (3) of the statutes is amended to read:

71.58 **(3)** "Farmland" means 35 or more acres of real property in this state owned by the claimant or any member of the claimant's household during the taxable year for which a credit under ~~this subchapter~~ ss. 71.57 to 71.61 is claimed if the farmland, during that year, produced not less than $6,000 in gross farm profits resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farmland, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

SECTION 48. 71.58 (4) of the statutes is amended to read:

71.58 **(4)** "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market

value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

SECTION 49. 71.58 (8) of the statutes is amended to read:

71.58 **(8)** "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland and improvements owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed $6,000. If farmland is owned by a tax-option corporation, a limited liability company or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this subsection, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes there are no "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the seller reimburses the buyer for part of the property taxes, the amount prorated to the

seller in the closing agreement. With the claim for credit under ~~this subchapter~~ ss. 71.57 to 71.61, the seller shall submit a copy of the closing agreement and the buyer shall submit a copy of the closing agreement and a copy of the property tax bill.

SECTION 50. 71.59 (1) (a) of the statutes is amended to read:

71.59 **(1)** (a) Subject to the limitations provided in ~~this subchapter~~ ss. 71.57 to 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income or franchise taxes otherwise due, the amount derived under s. 71.60. If the allowable amount of claim exceeds the income or franchise taxes otherwise due on or measured by the claimant's income or if there are no Wisconsin income or franchise taxes due on or measured by the claimant's income, the amount of the claim not used as an offset against income or franchise taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft drawn on the general fund.

SECTION 51. 71.59 (1) (b) (intro.) of the statutes is amended to read:

71.59 **(1)** (b) (intro.) Every claimant under ~~this subchapter~~ ss. 71.57 to 71.61 shall supply, at the request of the department, in support of the claim, all of the following:

SECTION 52. 71.59 (1) (b) 4. of the statutes is amended to read:

71.59 **(1)** (b) 4. Certification by the claimant that each county land conservation committee with jurisdiction over the farmland has been notified that the claimant intends to submit a claim under ~~this subchapter~~ ss. 71.57 to 71.61.

SECTION 53. 71.59 (1) (c) of the statutes is amended to read:

71.59 **(1)** (c) A farmland preservation agreement submitted under par. (b) 3. shall contain provisions specified under s. 91.13 (8), 2007 stats., including either a provision requiring farming operations to be conducted in substantial accordance

with a soil and water conservation plan prepared under s. 92.104, 2007 stats., or a provision requiring farming operations to be conducted in compliance with reasonable soil and water conservation standards established under s. 92.105, 2007 stats.

SECTION 54. 71.59 (1) (d) 1. of the statutes is amended to read:

71.59 **(1)** (d) 1. That the lands are within the boundaries of an agricultural zoning district which is part of an adopted ordinance meeting the standards of subch. V of ch. 91, 2007 stats., and certified under s. 91.06, 2007 stats.

SECTION 55. 71.59 (1) (d) 5. of the statutes is amended to read:

71.59 **(1)** (d) 5. That soil and water conservation standards applicable to the land are established and approved as required under s. 92.105 (1) to (3), 2007 stats., and that no notice of noncompliance is in effect under s. 92.105 (5), 2007 stats., with respect to the claimant at the time the certificate is issued.

SECTION 56. 71.59 (2) (intro.) of the statutes is amended to read:

71.59 **(2)** INELIGIBLE CLAIMS. (intro.) No credit shall be allowed under ~~this subchapter~~ ss. 71.57 to 71.61:

SECTION 57. 71.59 (2) (b) of the statutes is amended to read:

71.59 **(2)** (b) If a notice of noncompliance with an applicable soil and water conservation plan under s. 92.104, 2007 stats., is in effect with respect to the claimant at the time the claim is filed.

SECTION 58. 71.59 (2) (c) of the statutes is amended to read:

71.59 **(2)** (c) If a notice of noncompliance with applicable soil and water conservation standards under s. 92.105, 2007 stats., is in effect with respect to the claimant at the time the claim is filed.

SECTION 59. 71.59 (2) (d) of the statutes is amended to read:

71.59 **(2)** (d) For property taxes accrued on farmland zoned for exclusive agricultural use under an ordinance certified under subch. V of ch. 91, 2007 stats., which is granted a special exception or conditional use permit for a use which is not an agricultural use, as defined in s. 91.01 (1), 2007 stats.

SECTION 60. 71.59 (2) (e) of the statutes is amended to read:

71.59 **(2)** (e) If the department determines that ownership of the farmland has been transferred to the claimant primarily for the purpose of maximizing benefits under ~~this subchapter~~ ss. 71.57 to 71.61.

SECTION 61. 71.60 (1) (b) of the statutes is amended to read:

71.60 **(1)** (b) The credit allowed under ~~this subchapter~~ ss. 71.57 to 71.61 shall be limited to 90% of the first $2,000 of excessive property taxes plus 70% of the 2nd $2,000 of excessive property taxes plus 50% of the 3rd $2,000 of excessive property taxes. The maximum credit shall not exceed $4,200 for any claimant. The credit for any claimant shall be the greater of either the credit as calculated under ~~this subchapter~~ ss. 71.57 to 71.61 as it exists at the end of the year for which the claim is filed or as it existed on the date on which the farmland became subject to a current agreement under subch. II or III of ch. 91, 2007 stats., using for such calculations household income and property taxes accrued of the year for which the claim is filed.

SECTION 62. 71.60 (1) (c) 1. of the statutes is amended to read:

71.60 **(1)** (c) 1. If the farmland is located in a county which has a certified agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of the year for which credit is claimed and is in an area zoned by a county, city or village for exclusive agricultural use under ch. 91, 2007 stats., at the close of such year, the amount of the claim shall be that as specified in par. (b).

SECTION 63. 71.60 (1) (c) 2. of the statutes is amended to read:

71.60 **(1)** (c) 2. If the farmland is subject to a transition area agreement under subch. II of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the claimant had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, and the farmland is located in a city or village which has a certified exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, or in a town which is subject to a certified county exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, the amount of the claim shall be that as specified in par. (b).

SECTION 64. 71.60 (1) (c) 3. of the statutes is amended to read:

71.60 **(1)** (c) 3. If the claimant or any member of the claimant's household owns farmland which is ineligible for credit under subd. 1. or 2. but was subject to a farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, and if the owner has applied by the end of the year in which conversion under s. 91.41, 2007 stats., is first possible for conversion of the agreement to a transition area agreement under subch. II of ch. 91, 2007 stats., and the transition area agreement has subsequently been executed, and the farmland is located in a city or village which has a certified exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, or in a town which is subject to a certified county exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, the amount of the claim shall be that specified in par. (b).

1 **SECTION 65.** 71.60 (1) (c) 4. of the statutes is amended to read:

2 71.60 **(1)** (c) 4. If the claimant or any member of the claimant's household owns
3 farmland which is ineligible for credit under subd. 1. or 2. but which is subject to a
4 farmland preservation agreement or a transition area agreement under subch. II of
5 ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had
6 applied for such an agreement before July 1 of such year and the agreement has
7 subsequently been executed, the amount of the claim shall be limited to 80% of that
8 specified in par. (b).

9 **SECTION 66.** 71.60 (1) (c) 5. of the statutes is amended to read:

10 71.60 **(1)** (c) 5. If the claimant or any member of the claimant's household owns
11 farmland which is ineligible for credit under subds. 1. to 4. but was subject to a
12 farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1
13 of the year for which credit is claimed, or the owner had applied for such an
14 agreement before July 1 of such year and the agreement has subsequently been
15 executed, and if the owner has applied by the end of the year in which conversion
16 under s. 91.41, 2007 stats., is first possible for conversion of the agreement to an
17 agreement under subch. II of ch. 91, 2007 stats., and the agreement under subch. II
18 of ch. 91, 2007 stats., has subsequently been executed, the amount of the claim shall
19 be limited to 80% of that specified in par. (b).

20 **SECTION 67.** 71.60 (1) (c) 6. of the statutes is amended to read:

21 71.60 **(1)** (c) 6. If the farmland is located in an agricultural district under a
22 certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats.,
23 at the close of the year for which credit is claimed, and is located in an area zoned for
24 exclusive agricultural use under a certified town ordinance under subch. V of ch. 91,

2007 stats., at the close of such year, the amount of the claim shall be the amount specified in par. (b).

SECTION 68. 71.60 (1) (c) 6m. of the statutes is amended to read:

71.60 **(1)** (c) 6m. If the farmland is located in an agricultural district under a certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of the year for which credit is claimed, and is located in an area zoned for exclusive agricultural use under a certified county or town ordinance under subch. V of ch. 91, 2007 stats., for part of a year but not at the close of that year because the farmland became subject to a city or village extraterritorial zoning ordinance under s. 62.23 (7a), the amount of the claim shall be equal to the amount that the claim would have been under this section if the farmland were subject to a certified county or town exclusive agricultural use ordinance at the close of the year.

SECTION 69. 71.60 (1) (c) 7. of the statutes is amended to read:

71.60 **(1)** (c) 7. If the farmland is located in an area zoned for exclusive agricultural use under a certified county, city or village ordinance under subch. V of ch. 91, 2007 stats., at the close of the year for which credit is claimed, but the county in which the farmland is located has not adopted an agricultural preservation plan under subch. IV of ch. 91, 2007 stats., by the close of such year, the amount of the claim shall be limited to 70% of that specified in par. (b).

SECTION 70. 71.60 (1) (c) 8. of the statutes is amended to read:

71.60 **(1)** (c) 8. If the farmland is subject to a farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed or the claimant had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, the amount of the claim shall be limited to 50% of that specified in par. (b).

1 **SECTION 71.** 71.60 (2) of the statutes is amended to read:

2 71.60 **(2)** If the farmland is subject to a certified ordinance under subch. V of
3 ch. 91, 2007 stats., or an agreement under subch. II of ch. 91, 2007 stats., in effect
4 at the close of the year for which the credit is claimed, the amount of the claim is 10%
5 of the property taxes accrued or the amount determined under sub. (1), whichever
6 is greater.

7 **SECTION 72.** 71.61 of the statutes is amended to read:

8 **71.61 General provisions. (1)** DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX
9 LIABILITY. The amount of any claim otherwise payable under ~~this subchapter~~ ss. 71.57
10 to 71.61 may be applied by the department against any amount certified to the
11 department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

12 **(2)** CREDITS ARE INCOME. All amounts allowed as credits under ~~this subchapter~~
13 ss. 71.57 to 71.61 constitute income for income and franchise tax purposes and are
14 reportable as such in the year of receipt.

15 **(3)** INTEREST NOT ALLOWED. No interest may be allowed on any payment made
16 to a claimant under ~~this subchapter~~ ss. 71.57 to 71.61.

17 **(3m)** ADMINISTRATION. The income tax provisions in this chapter relating to
18 assessments, refunds, appeals and collection apply to the credit under ~~this~~
19 ~~subchapter~~ ss. 71.57 to 71.61.

20 **(4)** PENALTIES. Unless specifically provided in ~~this subchapter~~ ss. 71.57 to
21 71.61, the penalties under subch. XIII apply for failure to comply with ~~this~~
22 ~~subchapter~~ ss. 71.57 to 71.61 unless the context requires otherwise.

23 **(5)** TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under
24 which claims under ~~this subchapter~~ ss. 71.57 to 71.61 shall be determined.

25 **SECTION 73.** 71.61 (6) of the statutes is created to read:

1 71.61 **(6)** PROHIBITION OF NEW CLAIMS. For taxable years beginning after
2 December 31, 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61,
3 but if an otherwise eligible claimant is subject to a farmland preservation agreement,
4 as defined in s. 91.01 (7), 2007 stats., that is in effect on July 1, 2010, the claimant
5 may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland
6 preservation agreement expires, except that no claimant who files a claim under ss.
7 71.57 to 71.61 may file a claim under s. 71.613.

8 **SECTION 74.** 71.613 of the statutes is created to read:

9 **71.613 Farmland preservation credit, 2010 and beyond. (1)** DEFINITIONS.
10 In this section:

11 (a) "Agricultural use" has the meaning given in s. 91.01 (2).

12 (b) "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of
13 farmland, domiciled in this state during the entire taxable year to which the claim
14 under this section relates, who files a claim under this section, except as follows:

15 1. When 2 or more individuals of a household are able to qualify individually
16 as a claimant, they may determine between them who the claimant shall be. If they
17 are unable to agree, the matter shall be referred to the secretary of revenue, whose
18 decision is final.

19 2. If any person in a household has claimed or will claim credit under subch.
20 VIII, all persons from that household are ineligible to claim any credit under this
21 section for the year to which the credit under subch. VIII pertains.

22 3. For partnerships except publicly traded partnerships treated as
23 corporations under s. 71.22 (1k), "claimant" means each individual partner.

24 4. For limited liability companies, except limited liability companies treated as
25 corporations under s. 71.22 (1k), "claimant" means each individual member.

1 5. For purposes of filing a claim under this section, the personal representative
2 of an estate and the trustee of a trust shall be considered owners of farmland.
3 "Claimant" does not include the estate of a person who is a nonresident of this state
4 on the person's date of death, a trust created by a nonresident person, a trust which
5 receives Wisconsin real property from a nonresident person or a trust in which a
6 nonresident settlor retains a beneficial interest.

7 6. For purposes of filing a claim under this section, when land is subject to a
8 land contract, the claimant shall be the vendee under the contract.

9 7. For purposes of filing a claim under this section, when a guardian has been
10 appointed in this state for a ward who owns the farmland, the claimant shall be the
11 guardian on behalf of the ward.

12 8. For a tax-option corporation, "claimant" means each individual shareholder.

13 (c) "Department" means the department of revenue.

14 (d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least
15 $6,000 in gross farm revenues during the taxable year to which the claim relates or,
16 in the taxable year to which the claim relates and the 2 immediately preceding
17 taxable years, at least $18,000 in gross farm revenues.

18 (e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

19 (f) "Farmland preservation zoning district" has the meaning given in s. 91.01
20 (18).

21 (g) "Gross farm revenues" means gross receipts from agricultural use of a farm,
22 excluding rent receipts, less the cost or other basis of livestock or other agricultural
23 items purchased for resale which are sold or otherwise disposed of during the taxable
24 year.

1 (ge) "Household" means an individual and his or her spouse and all minor
2 dependents.
3 (h) "Qualifying acres" means the number of acres of a farm that correlate to a
4 claimant's percentage of ownership interest in a farm to which one of the following
5 applies:
6 1. The farm is wholly or partially covered by a farmland preservation
7 agreement, except that if the farm is only partially covered, the qualifying acres
8 calculation includes only those acres which are covered by a farmland preservation
9 agreement.
10 2. The farm is located in a farmland preservation zoning district at the end of
11 the taxable year to which the claim relates.
12 3. If the claimant transferred the claimant's ownership interest in the farm
13 during the taxable year to which the claim relates, the farm was wholly or partially
14 covered by a farmland preservation agreement, or the farm was located in a farmland
15 preservation zoning district, on the date on which the claimant transferred the
16 ownership interest. For the purposes of this subdivision, a land contract is a transfer
17 of ownership interest.
18 **(2)** FILING CLAIMS. Subject to the limitations and conditions provided in sub. (3),
19 a claimant may claim as a credit against the tax imposed under s. 71.02, 71.08, 71.23,
20 or 71.43, an amount calculated by multiplying the claimant's qualifying acres by one
21 of the following amounts, and if the allowable amount of the claim exceeds the income
22 taxes otherwise due on the claimant's income or if there are no Wisconsin income
23 taxes due on the claimant's income, the amount of the claim not used as an offset
24 against income taxes shall be certified by the department of revenue to the

1 department of administration for payment to the claimant by check, share draft, or
2 other draft from the appropriations under s. 20.835 (2) (do) and (qb):
3 (a) Ten dollars, if the qualifying acres are located in a farmland preservation
4 zoning district and are also subject to a farmland preservation agreement that is
5 entered into after the effective date of this paragraph .... [LRB inserts date].
6 (b) Seven dollars and 50 cents, if the qualifying acres are located in a farmland
7 preservation zoning district but are not subject to a farmland preservation
8 agreement that is entered into after the effective date of this paragraph .... [LRB
9 inserts date].
10 (c) Five dollars, if the qualifying acres are subject to a farmland preservation
11 agreement that is entered into after the effective date of this paragraph .... [LRB
12 inserts date], but are not located in a farmland preservation zoning district.
13 **(3)** LIMITATIONS AND CONDITIONS. (a) No credit may be allowed under this section
14 unless all of the following apply:
15 1. The claimant certifies to the department that the claimant has paid, or is
16 legally responsible for paying, the property taxes levied against the qualifying acres
17 to which the claim relates.
18 2. The claimant certifies to the department that at the end of the taxable year
19 to which the claim relates or, on the date on which the person transferred the person's
20 ownership interest in the farm if the transfer occurs during the taxable year to which
21 the claim relates, there was no outstanding notice of noncompliance issued against
22 the farm under s. 91.82 (2).
23 3. The claimant submits to the department a certification of compliance with
24 soil and water conservation standards, as required by s. 91.80, issued by the county

land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

(b) If a farm is jointly owned by 2 or more persons who file separate income or franchise tax returns, each person may claim a credit under this section based on the person's ownership interest in the farm.

(c) If a person acquires or transfers ownership of a farm during a taxable year for which a claim may be filed under this section, the person may file a claim under this section based on the person's liability for the property taxes levied on the person's qualifying acres for the taxable year to which the claim relates.

(d) A claimant shall claim the credit under this section on a form prepared by the department and shall submit any documentation required by the department. On the claim form, the claimant shall certify all of the following:

1. The number of qualifying acres for which the credit is claimed.

2. The location and tax parcel number for each parcel on which the qualifying acres are located.

4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both.

5. That the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards, as required by s. 91.80.

(e) No credit may be allowed under this section unless it is claimed within the time period under s. 71.75 (2).

(f) The maximum amount of the credits that may be claimed under this section in any fiscal year is $27,280,000. If the total amount of eligible claims exceed this amount, the ~~department shall prorate the credits~~ excess claims shall be paid in the next succeeding fiscal year to ensure that the limit specified in this paragraph is not exceeded.

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1 **(4)** ADMINISTRATION. The department may enforce the credit under this section
2 and may take any action, conduct any proceeding, and proceed as it is authorized in
3 respect to taxes under this chapter. The income and franchise tax provisions in this
4 chapter relating to assessments, refunds, appeals, collection, interest, and penalties
5 apply to the credit under this section.

6 **SECTION 75.** Chapter 91 of the statutes is repealed and recreated to read:

7 **CHAPTER 91**

8 **FARMLAND PRESERVATION**

9 SUBCHAPTER I

10 DEFINITIONS AND GENERAL PROVISIONS

11 **91.01 Definitions.** In this chapter:

12 **(1)** "Accessory use" means any of the following land uses on a farm:

13 (a) A building, structure, or improvement that is an integral part of, or is
14 incidental to, an agricultural use.

15 (b) An activity or business operation that is an integral part of, or incidental
16 to, an agricultural use.

17 (c) A farm residence.

18 (d) A business, activity, or enterprise, whether or not associated with an
19 agricultural use, that is conducted by the owner or operator of a farm, that requires
20 no buildings, structures, or improvements other than those described in par. (a) or
21 (c), that employs no more than 4 full-time employees annually, and that does not
22 impair or limit the current or future agricultural use of the farm or of other protected
23 farmland.

24 (e) Any other use that the department, by rule, identifies as an accessory use.

1 **(1m)** "Agricultural enterprise area" means an area designated in accordance
2 with s. 91.84.

3 **(2)** "Agricultural use" means any of the following:

4 (a) Any of the following activities conducted for the purpose of producing an
5 income or livelihood:

6 1. Crop or forage production.

7 2. Keeping livestock.

8 3. Beekeeping.

9 4. Nursery, sod, or Christmas tree production.

10 4m. Floriculture.

11 5. Aquaculture.

12 6. Fur farming.

13 7. Forest management.

14 8. Enrolling land in a federal agricultural commodity payment program or a
15 federal or state agricultural land conservation payment program.

16 (b) Any other use that the department, by rule, identifies as an agricultural use.

17 **(3)** "Agriculture-related use" means any of the following:

18 (a) An agricultural equipment dealership, facility providing agricultural
19 supplies, facility for storing or processing agricultural products, or facility for
20 processing agricultural wastes.

21 (b) Any other use that the department, by rule, identifies as an
22 agriculture-related use.

23 **(5)** "Base farm tract" means one of the following:

24 (a) All land, whether one parcel or 2 or more contiguous parcels, that is in a
25 farmland preservation zoning district and that is part of a single farm when the

department under s. 91.36 (1) first certifies the farmland preservation zoning ordinance covering the land, regardless of any subsequent changes in the size of the farm.

(b) Any other tract that the department by rule defines as a base farm tract.

(6) "Certified farmland preservation plan" means a farmland preservation plan that is certified as determined under s. 91.12.

(7) "Certified farmland preservation zoning ordinance" means a zoning ordinance that is certified as determined under s. 91.32.

(8) "Chief elected official" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, the town board chairperson of a town, or the county executive of a county, or, if the county does not have a county executive, the chairperson of the county board of supervisors.

(9) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

(10) "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a political subdivision.

(11) "County land conservation committee" means a committee created under s. 92.06 (1).

(12) "Department" means the department of agriculture, trade and consumer protection.

(13) "Farm" means all land under common ownership that is primarily devoted to agricultural use.

(14) "Farm acreage" means size of a farm in acres.

1 **(15)** "Farmland preservation agreement" means any of the following
2 agreements between an owner of land and the department under which the owner
3 agrees to restrict the use of land in return for tax credits:
4 (a) A farmland preservation agreement or transition area agreement entered
5 into under s. 91.13, 2007 stats., or s. 91.14, 2007 stats.
6 (b) An agreement entered into under s. 91.60 (1).
7 **(16)** "Farmland preservation area" means an area that is planned primarily
8 for agricultural use or agriculture-related use, or both, and that is one of the
9 following:
10 (a) Identified as an agricultural preservation area or transition area in a
11 farmland preservation plan described in s. 91.12 (1).
12 (b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described
13 in s. 91.12 (2).
14 **(17)** "Farmland preservation plan" means a plan for the preservation of
15 farmland in a county, including an agricultural preservation plan under subch. IV
16 of ch. 91, 2007 stats.
17 **(18)** "Farmland preservation zoning district" means any of the following:
18 (a) An area zoned for exclusive agricultural use under an ordinance described
19 in s. 91.32 (1).
20 (b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in
21 an ordinance described in s. 91.32 (2).
22 **(19)** "Farm residence" means any of the following structures that is located on
23 a farm:
24 (a) A single-family or duplex residence that is the only residential structure
25 on the farm or is occupied by any of the following:

1. An owner or operator of the farm.

2. A parent or child of an owner or operator of the farm.

3. An individual who earns more than 50 percent of his or her gross income from the farm.

(b) A migrant labor camp that is certified under s. 103.92.

(20) "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).

(20m) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

(21) "Nonfarm residence" means a single-family or multi-family residence other than a farm residence.

(22) "Nonfarm residential acreage" means the total number of acres of all parcels on which nonfarm residences are located.

(22m) "Overlay district" means a zoning district that is superimposed on one or more other zoning districts and imposes additional restrictions on the underlying districts.

(23) "Owner" means a person who has an ownership interest in land.

(23m) "Permitted use" means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.

(24) "Political subdivision" means a city, village, town, or county.

(25) "Prime farmland" means any of the following:

(a) An area with a class I or class II land capability classification as identified by the natural resources conservation service of the federal department of agriculture.

1 (b) Land, other than land described in par. (a), that is identified as prime
2 farmland in a certified farmland preservation plan.
3 **(26)** "Prior nonconforming use" means a land use that does not conform with
4 a farmland preservation zoning ordinance, but that existed lawfully before the
5 farmland preservation zoning ordinance was enacted.
6 **(27)** "Protected farmland" means land that is located in a farmland
7 preservation zoning district, is covered by a farmland preservation agreement, or is
8 otherwise legally protected from nonagricultural development.
9 **(28)** "Taxable year" has the meaning given in s. 71.01 (12).
10 **91.02 Rule making. (1)** The department shall promulgate rules that set forth
11 technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).
12 **(2)** The department may promulgate rules for the administration of this
13 chapter, including rules that do any of the following:
14 (a) Identify accessory uses under s. 91.01 (1) (e).
15 (b) Identify agricultural uses under s. 91.01 (2) (b).
16 (c) Identify agriculture-related uses under s. 91.01 (3) (b).
17 (d) Identify base farm tracts under s. 91.01 (5) (b).
18 (e) Specify requirements for certification under s. 91.18 (1) (b).
19 (f) Require information in an application for certification of a farmland
20 preservation plan or amendment under s. 91.20 (4).
21 (g) Specify types of ordinance amendments for which certification is required
22 under s. 91.36 (8) (b) 3.
23 (h) Specify exceptions to the requirement that land in a farmland preservation
24 zoning district be included in a farmland preservation area under s. 91.38 (1) (g).

(i) Specify requirements for certification of a farmland preservation zoning ordinance under s. 91.38 (1) (i).

(j) Require information in an application for certification of a farmland preservation zoning ordinance or amendment under s. 91.40 (5).

(k) Authorize additional uses in a farmland preservation zoning district under s. 91.42 (4).

(L) Authorize additional uses as permitted uses in a farmland preservation zoning district under s. 91.44 (1) (g).

(m) Authorize additional uses as conditional uses in a farmland preservation zoning district under s. 91.46 (1) (j).

(o) Designate agricultural enterprise areas and modify and terminate designations of those areas under s. 91.84.

(p) Require information in an application for a farmland preservation agreement under s. 91.64 (2) (h).

(r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

91.03 Intergovernmental cooperation. State agencies shall cooperate with the department in the administration of this chapter and in other matters related to the preservation of farmland in this state. State agencies shall, to the extent feasible, cooperate in sharing and standardizing relevant information, identifying and mapping significant agricultural resources, and planning and evaluating the impact of state actions on agriculture.

91.04 Department to report. At least once every 2 years, beginning not later than December 31, 2011, the department shall submit a farmland preservation report to the board of agriculture, trade and consumer protection and provide copies of the report to the department of revenue and the department of administration.

1 The department shall prepare the report in cooperation with the department of
2 revenue and shall include all of the following in the report:

3 **(1)** A review and analysis of farmland availability, uses, and use trends in this
4 state, including information related to farmland conversion statewide and by county.

5 **(2)** A review and analysis of relevant information related to the farmland
6 preservation program under this chapter and associated tax credit claims under
7 subch. IX of ch. 71, including information related to all of the following:

8 (a) Participation in the program by political subdivisions and landowners.

9 (b) Tax credit claims by landowners, including the number of claimants, the
10 amount of credits claimed, acreage covered by tax credit claims, the amount of credits
11 claimed under zoning ordinances and under farmland preservation agreements, and
12 relevant projections and trends.

13 (c) The number, identity, and location of counties with certified farmland
14 preservation plans.

15 (d) Trends and developments related to certification of farmland preservation
16 plans.

17 (e) The number, identity, and location of political subdivisions with certified
18 farmland preservation zoning ordinances.

19 (f) Trends and developments related to certification of farmland preservation
20 zoning ordinances.

21 (g) The number, nature, and location of agricultural enterprise areas.

22 (h) The number and location of farms covered by farmland preservation
23 agreements, including new farmland preservation agreements, and the number and
24 location of farms for which farmland preservation agreements have expired.

(i) Conservation compliance by landowners under s. 91.80 and compliance activities by county land conservation committees under s. 91.82.

(j) Rezoning of land out of farmland preservation zoning districts under s. 91.48, including the amounts of conversion fees paid to political subdivisions under s. 91.48 (1) (b).

(k) Program costs, cost trends, and cost projections.

(L) Key issues related to program performance and key recommendations, if any, for enhancing the program.

SUBCHAPTER II

FARMLAND PRESERVATION PLANNING

91.10 County plan required; planning grants. (1) By January 1, 2015, a county shall adopt a farmland preservation plan that does all of the following:

(a) States the county's policy related to farmland preservation and agricultural development, including the development of enterprises related to agriculture.

(b) Identifies, describes, and documents other development trends, plans, or needs, that may affect farmland preservation and agricultural development in the county, including trends, plans, or needs related to population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion, and environmental preservation.

(c) Identifies, describes, and documents all of the following:

1. Agricultural uses of land in the county at the time that the farmland preservation plan is adopted, including key agricultural specialities, if any.

2. Key agricultural resources, including available land, soil, and water resources.

3. Key infrastructure for agriculture, including key processing, storage, transportation, and supply facilities.

4. Significant trends in the county related to agricultural land use, agricultural production, enterprises related to agriculture, and the conversion of agricultural lands to other uses.

5. Anticipated changes in the nature, scope, location, and focus of agricultural production, processing, supply, and distribution.

6. Goals for agricultural development in the county, including goals related to the development of enterprises related to agriculture.

7. Actions that the county will take to preserve farmland and to promote agricultural development.

8. Key land use issues related to preserving farmland and to promoting agricultural development and plans for addressing those issues.

(d) Clearly identifies areas that the county plans to preserve for agricultural use and agriculture-related uses, which may include undeveloped natural resource and open space areas but may not include any area that is planned for nonagricultural development within 15 years after the date on which the plan is adopted.

(e) Includes maps that clearly delineate all areas identified under par. (d), so that a reader can easily determine whether a parcel is within an identified area.

(f) Clearly correlates the maps under par. (e) with text that describes the types of land uses planned for each area on a map.

(g) Identifies programs and other actions that the county and local governmental units within the county may use to preserve the areas identified under par. (d).

1 **(2)** If the county has a comprehensive plan, the county shall include the
2 farmland preservation plan in its comprehensive plan and shall ensure that the
3 farmland preservation plan is consistent with the comprehensive plan. The county
4 may incorporate information contained in other parts of the comprehensive plan into
5 the farmland preservation plan by reference.

6 **(3)** To adopt a farmland preservation plan under sub. (1), a county shall follow
7 the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

8 **(4)** The department may provide information and assistance to a county in
9 developing a farmland preservation plan under sub. (1).

10 **(5)** A county shall notify the department before the county holds a public
11 hearing on a proposed farmland preservation plan under sub. (1) or on any
12 amendment to a farmland preservation plan. The county shall include a copy of the
13 proposed farmland preservation plan or amendment in the notice. The department
14 may review and comment on the plan or amendment.

15 **(6)** (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department
16 may award a planning grant to a county to provide reimbursement for up to 50
17 percent of the county's cost of preparing a farmland preservation plan required under
18 sub. (1). In determining priorities for awarding grants under this subsection, the
19 department shall consider the expiration dates for plan certification under s. 91.14.

20 (b) The department shall enter into a contract with a county to which it awards
21 a planning grant under par. (a) before the department distributes any grant funds
22 to the county. In the contract, the department shall identify the costs that are eligible
23 for reimbursement through the grant.

24 (c) The department may distribute grant funds under this subsection only after
25 the county shows that it has incurred costs that are eligible for reimbursement under

1 par. (b). The department may not distribute more than 50 percent of the amount of
2 a grant under this subsection for a farmland preservation plan before the county
3 submits the farmland preservation plan for certification under s. 91.16.

4 **91.12 Certified plan.** The following farmland preservation plans are
5 certified, for the purposes of this chapter and s. 71.613:

6 **(1)** An agricultural preservation plan that was certified under s. 91.06, 2007
7 stats., if the certification has not expired.

8 **(2)** A farmland preservation plan that was certified under s. 91.16 if the
9 certification has not expired or been withdrawn.

10 **91.14 Expiration of plan certification. (1)** The certification of a farmland
11 preservation plan that was certified under s. 91.06, 2007 stats., expires on the date
12 provided in the certification or, if the certification does not provide an expiration
13 date, on the following date:

14 (a) December 31, 2011, for a county with an increase in population per square
15 mile of more than 9 percent.

16 (b) December 31, 2012, for a county with an increase in population per square
17 mile of more than 3.75 percent but not more than 9 percent.

18 (c) December 31, 2013, for a county with an increase in population per square
19 mile of more than 1.75 percent but not more than 3.75 percent.

20 (d) December 31, 2014, for a county with an increase in population per square
21 mile of more than 0.8 percent but not more than 1.75 percent.

22 (e) December 31, 2015, for a county with an increase in population per square
23 mile of not more than 0.8 percent.

24 **(2)** The certification of a farmland preservation plan that the department
25 certifies under s. 91.16 expires on the date specified under s. 91.16 (2).