

PAYMENT IN LIEU OF TAXES

FOR STATE NATURAL RESOURCES LANDS



A Report to the Minnesota Legislature

2011 Minnesota Laws, First Special Session, chapter 2, article 4, section 35

Minnesota Department of Natural Resources



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Report to the Minnesota Legislature

December 1, 2012

The report is required by 2011 Minnesota Laws, First Special Session, chapter 2, article 4, section 35. The Commissioner of the Department of Natural Resources (DNR) submits this report in cooperation with the Commissioners from the Department of Revenue (DOR) and Minnesota Management & Budget (MMB), as well as representatives from affected local units of government and other interested parties. The report recommends changes to payment in lieu of taxes (PILT) for natural resources lands under Minn. Stat. §§ 97A.061 and 477A.11 to 477A.14.

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EXECUTIVE SUMMARY

The 2011 Minnesota Legislature directed the Department of Natural Resources (DNR) to collaborate with the Department of Revenue (DOR), Minnesota Management and Budget (MMB), and stakeholders to develop recommendations on changes to payments in lieu of taxes (PILT) for natural resources lands and submit a report on the findings. The report was required to include an analysis of the current payment and distribution system and any recommended changes to:

1. The purpose of the payment system and the criteria for payments;
2. The rate of payments for specific classes of natural resource lands;
3. The adequacy of current funding for payments and the impact of additional land acquisition on the funding;
4. Alternative methods of reimbursing local units of governments for state natural resource lands; and
5. The formula for distribution of the payments to local units of government.

To meet this requirement, DNR established a multi-stakeholder Commissioners' Advisory Group, a multi-stakeholder Technical Work Group, and a DNR project team and initiated a process for collecting data, conducting analysis, and developing recommendations in cooperation with DOR, MMB, and stakeholders. Seven meetings were held during 2012 to review the current payment and distribution system, the history of PILT, and related information and develop recommendations.

There are approximately 8.5 million acres of state-owned or leased natural resource lands and federal game refuges in Minnesota for which counties receive payments in lieu of taxes. This land – which includes forests, parks and trails, wildlife management areas, and other natural resource lands – provides significant benefits to Minnesotans. These benefits are broadly acknowledged. Public natural resource lands serve as the cornerstone of Minnesota's robust natural resource economies – these lands provide commodities such as timber, gravel, and minerals. In addition, these lands support tourism and recreation based economies throughout the state and the state's 2.5 million acres of School Trust Lands provide revenue for our states schools. Mining is the biggest contributor to northeast Minnesota's economy. Minnesota's forest products sector has an economic impact of \$13.8 billion in sales annually and supports 67,300 jobs. Public natural resource lands also provide areas for people to camp, hunt, fish, bike, snowmobile, and engage in multiple recreation opportunities. Parks and trails attract more than 8 million visitors to local communities annually, supporting an \$11.3 billion tourism industry. Hunting, fishing, and wildlife watching generate \$4.3 billion annually and support 55,000 jobs. Public lands provide significant benefits to the state and its citizens, and PILT payments are critical to those counties where these public lands are located.

Advisory Findings and Conclusions

In examining the historic and current PILT structure, the Advisory Group determined that:

- The primary driver of increasing PILT costs is not land acquisition, but the dramatic increase in land values for acquired natural resources land over the last decade.
- There is a wide disparity in compensation rates for different types of land.
- The acquired lands classification (17% of total state-owned land) receive 73% of the total PILT payment.
- Counties within the Twin Cities metropolitan area receive the highest average per-acre payment.
- Current PILT rates are based on legislative direction and modeled after federal PILT rates.

Recommendations

The Advisory Group developed recommendations for adjusting PILT by reviewing and analyzing PILT-related data, reports, and other sources of information. Major recommendations were to:

- Amend M.S.477A to include a purpose statement.
- Simplify the rate structure for different land types.
- Clarify, standardize, and streamline the acquired land valuation process.

Other recommendations proposed by the Advisory Group included:

- The legislature should consider restoring annual inflationary adjustments to flat-rate PILT payments.
- The legislature and DNR should enhance existing efforts to inform the public about PILT and the drivers of PILT cost increases.
- The legislature should further develop alternatives to pay for future PILT obligations, including an examination of a “trust fund” approach for new land acquisitions. The recommendations of the Minnesota Department of Education’s Education Finance Working Group should be monitored for implications for PILT payments and payment distributions.

DNR also recommends:

- The legislature should revise the distribution formula to provide townships with at least 10 percent of the actual payment to the county for acquired lands within the townships’ boundaries to be consistent with historic distribution percentages. (This recommendation did not have group consensus.)

The Advisory Group believes that these recommendations will clarify, simplify, and increase transparency in the process and engender continued support for public lands and the benefits these lands provide.

INTRODUCTION

Section 1: Background and Purpose

The State of Minnesota makes annual payments in lieu of taxes (PILT) to counties in which state-held natural resources lands and certain county-managed tax-forfeited lands are located. Payment rates and allocations vary by land class. Total state payments have increased substantially since the late 1990s primarily due to:

- amendments to PILT laws that increased the amount of land eligible for value-based payments, added inflation adjustments to flat-rate payments and raised payment rates for certain lands
- increases in land values, and
- state acquisitions of natural resources lands

The 2011 Minnesota Legislature passed a law requiring that the Department of Natural Resources (DNR) cooperate with the Departments of Revenue (DOR), Minnesota Management & Budget (MMB), and stakeholders to submit a report on recommended changes to PILT for natural resources lands. Specifically, the law provides:

By December 1, 2012, the commissioner of natural resources, in cooperation with the commissioners of revenue and management and budget, and stakeholders, including representatives from affected local units of government and other interested parties, shall report to the chairs and ranking minority caucus members of the senate and house of representatives natural resources and tax policy and finance committees with recommended changes to payment in lieu of taxes for natural resource lands under Minnesota Statutes, sections 97A.061 and 477A.11 to 477A.145. The report shall include an analysis of the current payment and distribution system and any recommended changes to:

- 1) the purpose of the payment system and the criteria for payments,
- 2) the rate of payments for specific classes of natural resource lands,
- 3) the adequacy of current funding for payments and the impact of additional land acquisition on the funding,
- 4) alternative methods of reimbursing local units of governments for state natural resource lands, and
- 5) the formula for distribution of the payments to local units of government.¹

¹ 2011 Minn. Laws, 1st Special Session, ch. 2, art. 4, § 35.

Section 2: Methodology

Project Leadership and Guidance. In 2011, the DNR identified a group structure and process for collecting data, conducting analysis, and developing recommendations in cooperation with DOR, MMB and stakeholders. The project's structure included a multi-stakeholder Commissioners' Advisory Group, a multi-stakeholder Technical Work Group, and a DNR project team.

- **The Commissioners' Advisory Group** provided advice to the DNR, DOR and MMB Commissioners regarding whether changes were needed to PILT, and if so, what those changes should be. The group included representatives nominated by the DOR and MMB Commissioners, the Association of Minnesota Counties, the Minnesota Association of Townships and the Minnesota School Boards Association. Other people with subject matter expertise and historical knowledge of PILT joined the group at the invitation of the DNR Commissioner. The Acknowledgments section on pages 1 and 2 lists the members of the Advisory Group.
- **The Technical Work Group** conducted background research and analysis for the Advisory Group and provided other research and support. The group was comprised of agency and legislative staff representatives, county and township representatives and other analysts as needed. The Acknowledgments section lists the members of the Technical Work Group.
- **A DNR project team** managed the recommendation and report development project.
- **Consultants** from Management Analysis & Development (MMB) provided Advisory Group meeting facilitation and other project support.

Data Collection and Analysis. The DNR project team used the following methods to collect information and stakeholder perspectives for this report.

- **Stakeholder meetings.** The Advisory Group reviewed the current payment and distribution system, PILT's history, and related information at their meetings (see Appendix A). The group also reviewed the current payment and distribution system. The Technical Work Group provided additional data and analytical support.
- **Historical research.** Legislative history information was obtained from the Minnesota Legislative Reference Library. Materials reviewed included news articles on file and records of legislative hearings.
- **Existing reports and studies.** Prior reports and studies on PILT were obtained from the Legislative Reference Library and department files.
- **Operational data.** The DNR's PILT program coordinator served as project lead and provided detailed operational data and summary reports from the department's files as needed throughout the project. Related information about state natural resources lands was provided by staff of the DNR Lands and Minerals Division.

- **Research on federal and other state practices.** Information about federal PILT practices was obtained from a recent Office of the Legislative Auditor report, as well as from a presentation by John Ongaro, the Intergovernmental Affairs Director for St. Louis County. Information about other states' PILT practices was collected by DNR staff through web-based research and telephone calls to other states.
- **Survey of county assessors.** The Department of Revenue conducted a survey of county assessors midway through the project in order to collect more detailed information on methods used by counties to assess land values. The survey was distributed to all 87 county assessors. Seventy-one responses were returned, for a response rate of 82 percent.

Recommendation Development and Reporting. After reviewing related data and documents, the Advisory Group discussed and considered recommendations for changing PILT in the areas targeted in the legislative charge (e.g., payment system purpose, payment criteria and rates, adequacy of current funding, impact of additional land acquisition, alternative methods of reimbursement and distribution formula). Supported by the agency commissioners, the Technical Work Group, the project team, and MAD consultants, the Advisory Group then finalized their recommendations as reported in the recommendations section of this report.

Section 3: Report Structure

This report contains three chapters.

- **Chapter One** provides a description and analysis of the current payment and distribution system.
- **Chapter Two** details PILT's historical development from 1933 through 2012.
- **Chapter Three** documents the Advisory Group's and DNR's consideration of recommendations for changing PILT and final recommendations for making change.

Chapters One and Two provide a foundation for understanding how the current system came to be and how it functions now. Chapter Three describes how the Advisory Group and DNR used the historical and current information, and their own experience, expertise and analysis, to craft PILT recommendations.

CHAPTER 1 Current Payment and Distribution System

Section 1: Chapter Introduction and Overview

This chapter provides a brief overview of statewide PILT payments and lands subject to PILT, followed by an in-depth description and analysis of PILT land classes, payment rates and the payment and distribution process.

In 2012, the State of Minnesota made statewide payments in lieu of taxes (PILT) in the amount of \$25,827,999 for 8,474,871 acres of natural resources land. The source of all payments is the state general fund. The state made payments to all 87 Minnesota counties, from a low of \$13,176 to Red Lake County to a high of \$2,726,638 to St. Louis County.

The current payment and distribution system is governed by Minn. Stat. § 97A.061, which is a part of the Minnesota game and fish laws,² and five sections of Minn. Stat. chapter 477A,³ which pertains to local government aid.

The system makes payments for the following natural resources lands:

- All state-owned lands administered by the commissioner of natural resources.
- All state-owned tax-forfeited lands, other than platted lots within a city, administered by counties.
- Land utilization project (LUP) lands leased by the state from the United States and administered by the commissioner of natural resources.
- Lands acquired from private owners and owned by the Department of Transportation for the purpose of replacing wetland losses caused by transportation projects, provided that a county must have more than 500 acres of such land for a payment to be made.
- Camp Ripley Game Refuge administered by the Department of Military Affairs.

Section 2: Land Classes and Payment Rates Overview

PILT laws classify natural resources lands into seven major categories for the purposes of applying payment rates and distributing payments (Table 1). Two major land classes, *acquired natural resources land* and *other natural resources land*, account for 97 percent of all payments. The remaining three percent are for land utilization project (LUP) land, Department of Transportation (DOT) wetland replacement lands, Lake Vermilion and Soudan Underground State Parks,⁴ Camp Ripley Game Refuge and goose management croplands.

² See Minn. Stat. § 97A.011.

³ Minn. Stat. §§ 477A.11-.14 & 477A.17.

⁴ Nearly all of the land in these parks is “acquired.” However, under Minn. Stat. § 477A.17, the payment rate is double that for other acquired natural resources land.

Table 1: Lands Classes for PILT Payment Rates and Payment Distribution

| | |
|----|---|
| 1* | Acquired Natural Resources Land <ul style="list-style-type: none">• Hunting and Non-Hunting• Consolidated Conservation (Con-Con) |
| 2 | Other Natural Resources Land <ul style="list-style-type: none">• DNR-Administered• County-Administered |
| 3 | Land Utilization Project (LUP) Land |
| 4 | DOT Wetland Replacement Lands |
| 5 | Lake Vermilion and Soudan Underground Mine State Parks |
| 6 | Camp Ripley Game Refuge |
| 7 | Goose Management Croplands |
| | <i>*The numbering of the classes is for the purpose of this report only.</i> |

Table 2 shows the payment rate, distribution and statute(s) associated with each land class type, followed by detail on individual land classes, payments and related information.

Table 2: Summary of Payment Rates and Distribution by Land Class, Statute and Type

| Land Class & Subclass (as applicable) | Applicable Minn. Statute(s) | Payment Rate | Distribution |
|--|---|---|--|
| Acquired NRL Hunting | MS § 477A.12, subd. 1(a)(1); MS § 97A.061, subd. 1(a) | \$5.133/acre or ¾ of 1% of appraised value; (additional payment, if applicable, is based on 35% of gross receipts; ¾ of 1% of appraised value; or 50¢/acre) | Among the county, town and schools like a tax on the land ⁵ |
| Acquired NRL Non-Hunting | MS § 477A.12, subd. 1(a)(1) | \$5.133/acre or ¾ of 1% of appraised value | Per formula in MS § 477A.14, subd. 1 |
| Acquired NRL Con-Con | MS § 477A.12, subd. 1(a)(1) | \$5.133/acre or ¾ of 1% of appraised value | Per formula in MS § 477A.14, subsd. 1 & 2 |
| Other NRL DNR-Admin. | MS § 477A.12, subd. 1(a)(4) | 64.2¢/acre | Per formula in MS § 477A.14, subd. 1 |
| Other NRL County-Admin. | MS § 477A.12, subd. 1(a)(2) | \$1.283/acre | Per formula in MS § 477A.14, subd. 1 |
| LUP Land | MS § 477A.12, subd. 1(a)(3) | \$1.283/acre | Per formula in MS § 477A.14, subd. 1 |
| DOT Wetland Replacement | MS § 477A.12, subd. 1(b) | \$5.133/acre or ¾ of 1% of appraised value | Per formula in MS § 477A.14, subd. 1 |
| Vermilion/Soudan | MS § 477A.17 | 1.5% of appraised value of the land | 1/3 each to county, town and school district |
| Camp Ripley Game Refuge | MS § 97A.061, subd. 1(b) | 50% of \$5.133/acre x acres designated as game refuge | Among the county, town and schools like a tax on the land |
| Goose Mgmt Croplands | MS § 97A.061, subd. 3 | Equal to taxes on comparable, privately owned, adjacent land | Among the county, town and schools like a tax on the land |

NRL=Natural Resource Land

⁵ See Chapter 1, Section 5 for a discussion of the two exceptions to this general rule.

Section 3: Individual Land Classes and Their Payment Rates

Class 1: Acquired Natural Resources Land. Acquired natural resources land is defined as:

- “any land presently administered by the commissioner [of natural resources] in which the state acquired by purchase, condemnation, or gift, a fee title interest in lands which were previously privately owned;”⁶ and
- “lands acquired by the state under chapter 84A that are designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas.”⁷

In 2012, acquired natural resources lands comprised 17 percent (1,429,564) of the total acres of land eligible for PILT statewide and 73 percent (\$18,815,934) of the total payment. Table 2a, which follows the discussion about consolidated conservation lands below, shows 2012 acres and payments by land class.

The payment rate for acquired natural resources land is “\$5.133 multiplied by the total number of acres of acquired natural resources land or, at the county's option three-fourths of one percent of the appraised value of all acquired natural resources land in the county, whichever is greater.”⁸ In 2012, all but seven counties⁹ were paid based on three-fourths of one percent of the appraised value of their acquired natural resources land, rather than at the \$5.133/acre flat rate.¹⁰

Acquired natural resources lands are categorized as “hunting,” “non-hunting” or “consolidated conservation (con-con):”

- **Acquired Hunting and Non-Hunting Lands.** These lands¹¹ are sometimes referred to as lands “taken off the tax rolls” because they are purchased from private owners and become exempt from property taxes following their acquisition by the state.¹² Land conveyed to the state by a non-profit organization may have already become tax exempt under the non-profit organization’s ownership. However, the land will still be classified as “acquired” for purposes of PILT, as the non-profit organization is a “private” (i.e., not public) owner.¹³
 - **Acquired hunting lands** are state wildlife management areas.

⁶ Minn. Stat. § 477A.11, subd. 3(1).

⁷ Minn. Stat. § 477A.11, subd. 3(2).

⁸ Minn. Stat. § 477A.12, subd. 1(a)(1).

⁹ Beltrami, Kittson, Lake of the Woods, Marshall, Pennington, Red Lake and Roseau.

¹⁰ To benefit from the three-fourths of one percent payment option, a county’s average per acre acquired land value must exceed \$684.40.

¹¹ Acquired hunting and non-hunting lands are defined in Minn. Stat. § 477A.11, subd. 3(1). Acquired hunting lands must also meet the definition in Minn. Stat. § 97A.061, subd. 1(a).

¹² See Minn. Stat. § 272.02, subds. 8, 38.

¹³ See Minn. Stat. § 477A.11, subd. 3(1).

- **Acquired non-hunting¹⁴ lands** are all other lands acquired by the state from private owners and administered by the DNR. Most are acquired to become components of state parks, state recreation areas, state trails, state scientific and natural areas, state forests, state aquatic management areas or state water access sites.¹⁵
- **Acquired Consolidated Conservation (Con-Con) Lands.** Con-con lands are state-owned lands held in the public trust specifically for conservation purposes.¹⁶ Con-con lands that meet the definition¹⁷ of “acquired” are those designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas.¹⁸

Historical Note re Con-Con Lands: In the early 1900s, Minnesota counties issued bonds to pay the cost of ditching to drain lands for agricultural use. If two or more landowners signed a petition for construction of a drainage ditch, a county was required by law to construct the ditch. The county assessed all property owners ditch payments, whether or not they requested the ditches. Not all efforts to create farmland were successful and many landowners did not make their ditch payments. Landowner defaults on property taxes raised the risk of county defaults on their ditch bonds. Starting in 1929, the State of Minnesota intervened and paid off the ditch bonds in exchange for state ownership and land management.

¹⁴ Hunting is allowed on many of these lands. The term “non-hunting” distinguishes these lands from lands that were acquired for wildlife management areas (WMAs).

¹⁵ See Minn. Stat. ch. 86A (outdoor recreation system).

¹⁶ See <http://www.leg.state.mn.us/lrl/issues/issues.aspx?issue=concon>;
<http://www.dnr.state.mn.us/input/issues/concon/qa.html>

¹⁷ Acquired consolidated conservation lands are defined in Minn. Stat. § 477A.11, subd. 3(2).

¹⁸ There are other con-con lands that have not been designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas. Those lands are included in the “other natural resources land” class.

Table 2a: Summary of 2012 PILT Acres and Payments by Land Class

| Land Class & Subclass (as applicable) | 2012 Acres | % of Total 2012 Acres | 2012 Payment | % of Total 2012 Payment |
|---------------------------------------|------------------|-----------------------|---------------------|-------------------------|
| Acquired NRL Hunting | 433,264 | 5 | \$6,385,953 | 25 |
| Acquired NRL Non-Hunting | 358,654 | 4 | \$9,546,554 | 37 |
| Acquired NRL Con-Con ¹⁹ | 637,646 | 8 | \$2,886,139 | 11 |
| Other NRL DNR-Admin. | 4,101,350 | 48 | \$2,635,144 | 10 |
| Other NRL County-Admin. | 2,800,789 | 33 | \$3,593,412 | 14 |
| LUP Land | 83,425 | 1 | \$107,035 | 0 |
| DOT Wetland Replacement Lands | 1,825 | 0 | \$9,368 | 0 |
| Vermilion/Soudan | 4,117 | 0 | \$465,284 | 2 |
| Camp Ripley Game Refuge | 50,626 | 1 | \$129,906 | 1 |
| Goose Mgmt Croplands | 3,175 | 0 | \$69,205 | 0 |
| Totals | 8,474,871 | 100 | \$25,827,999 | 100 |

Class 2: Other Natural Resources Land. Other natural resources land is defined as “any other land presently owned in fee title by the state and administered by the commissioner [of natural resources], or any tax-forfeited land, other than platted lots within a city or [acquired con-con land], which is owned by the state and administered by the commissioner or by the county in which it is located.”²⁰

The payment rate and distribution of payment for other natural resources land depends on whether the land is administered by the DNR or a county.

- **DNR-administered other natural resources land** includes all land except “acquired natural resources lands” owned by the state and administered by the DNR. These lands were exempt from property taxes when acquired by the state. School trust land, granted to the state by acts of Congress for use of schools, comprises 61 percent (2.5 million acres) of the DNR-administered other natural resources land. Other subtypes include university trust;²¹ con-con land not designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas, Volstead²² and “acquired” other (i.e.,

¹⁹ These lands are located in Aitkin, Beltrami, Koochiching, Lake of the Woods, Mahnommen, Marshall and Roseau Counties.

²⁰ Minn. Stat. § 477A.11, subd. 4.

²¹ University trust land was granted to Minnesota by Congress to support a university.

²² Volstead lands were acquired by the state under the 1908 Volstead Act, which allowed liens against unpaid draining assessments.

government owned, property tax exempt when acquired).²³ In 2012, the state made a total payment of \$2,635,144 for 4,101,350 acres of these lands. This payment was 10 percent of the 2012 total. The acres comprised 48 percent of the 2012 total. The payment rate for DNR-administered other natural resources land is 64.2 cents per acre.²⁴

- **County-administered other natural resources land:** The only PILT-eligible lands administered by the counties are tax-forfeited lands, other than platted lots within a city. In 2012, the state paid a total of \$3,593,412 to counties for 2,800,789 acres of such land. County-tax forfeited lands comprised 33 percent of the 2012 PILT acres and 14 percent of the total payment. The payment rate for county-administered other natural resources land is \$1.283 cents per acre.²⁵

Class 3: Land Utilization Project Land. Land utilization project (LUP) land is comprised of federally-owned land located in Beltrami, Lake of the Woods and Roseau Counties.²⁶ LUP land is leased by the state and managed for wildlife. LUP land is the only class of land eligible for PILT that is not owned by the state in fee title. The payment rate for LUP land is \$1.283 cents per acre.²⁷

Class 4: Minnesota Department of Transportation Wetland Replacement Lands. DOT wetland replacement lands are lands “acquired from a private owner and owned by [DOT] for the purpose of replacing wetland losses caused by transportation projects.”²⁸ A county only receives PILT for these lands if there are more than 500 acres of such lands in the county as of July of the year preceding payment. In 2011 and 2012, only Polk County received PILT for DOT lands. DOT wetland replacement lands account for less than one percent of total PILT acres and payments. The payment rate for these lands is the same as the acquired natural resources land rate—the greater of \$5.133 per acre or three-fourths of one percent of the value of all acquired natural resources land in the county.²⁹

Class 5: Lake Vermilion and Soudan Underground Mine State Parks. Minn. Stat. § 477A.17³⁰ governs PILT for Lake Vermilion State Park and Soudan Underground Mine State Park and provides for a special payment rate and distribution system for these two state parks.

²³ Acquired other natural resources land includes tax-forfeited land conveyed by counties to the DNR for forest or conservation purposes.

²⁴ Minn. Stat. § 477A.12, subd. 1(a)(4).

²⁵ Minn. Stat. § 477A.12, subd. 1(a)(2).

²⁶ These lands were acquired under Title III of the Bankhead Jones Farm Tenant Act of 1937. They were primarily submarginal agricultural lands acquired and retired for conservation purposes.

²⁷ Minn. Stat. § 477A.12, subd. 1(a)(3).

²⁸ Minn. Stat. § 477A.12, subd. 1(b).

²⁹ *Id.*

³⁰ Recommendations for changes to Minn. Stat. § 477A.17 is outside of the scope of the legislative charge in 2011 Minnesota Laws, First Special Session, chapter 2, article 4, section 35. Information about Minn. Stat. § 477A.17 is provided by way of background.

The payment rate is 1.5 percent of the appraised value of land “acquired for Lake Vermilion State Park” and of land “within the boundary of Soudan Underground Mine State Park.”³¹

Class 6: Camp Ripley Game Refuge. Minn. Stat. § 97A.061, subdivision 1, paragraph (b) provides for payments in lieu of taxes for the Camp Ripley Game Refuge, which is located in Morrison County. The payment is 50 percent of the dollar amount as determined for acquired lands under Minn. Stat. § 477A.12, subdivision 1, paragraph (a), clause (1)³² times the number of acres in the county designated as the Game Refuge. Camp Ripley Game Refuge accounts for approximately one percent of the total PILT acres and payments.

Class 7: Goose Management Croplands. Minn. Stat. § 97A.061, subdivision 3 requires payments in lieu of taxes for crop land owned by the state for wild goose management purposes. The payment requirement only applies if the state owns more than 1,000 acres of such crop land in a county. These lands are not eligible for PILT under Minn. Stat. § 477A.12.³³

The only county that currently receives a goose management cropland payment is Chippewa. The payment is for lands in the Lac Qui Parle Wildlife Management Area. Goose management croplands comprised less than one percent of the total 2012 PILT acres and payments.

Section 4: The PILT Payment Process

Department of Revenue and DNR Payment Schedule: The DOR and DNR use this payment schedule:

- DOR makes annual PILT payments on July 20.³⁴
- DNR makes additional payments for acquired hunting lands and Camp Ripley Game Refuge in August.³⁵
- DNR also makes the payments required under Minn. Stat. § 97A.061 for goose management croplands upon receipt of a bill from Chippewa County.

The process to calculate the payment amounts begins in July of the year prior to the payment year.

³¹ Minn. Stat. § 477A.17(a).

³² Minn. Stat. § 477A.12, subd. 1(a)(1) provides: “for acquired natural resources land, \$5.133 multiplied by the total number of acres of acquired natural resources land or, at the county's option three-fourths of one percent of the appraised value of all acquired natural resources land in the county, whichever is greater.”

³³ Minn. Stat. § 477A.12, subd. 2.

³⁴ Money for PILT is appropriated to DNR for transfer to DOR. Minn. Stat. § 477A.12, subd. 1(a). DOR pays the transferred funds to the counties on July 20, with the first installment of local government aid. Minn. Stat. §§ 477A.13; 477A.015.

³⁵ Money for PILT under Minn. Stat. § 97A.061 is appropriated to the commissioner of natural resources who makes the payments to the counties required by this section.

Payment Process Overview. As noted, the payment rate for acquired natural resources land is the either a flat per acre rate of \$5.133 or three-fourths of one percent of the appraised value of all acquired natural resources land in the county.³⁶ The payment rate for land acquired for Lake Vermilion State Park and land within the boundary of Soudan Underground Mine State Park is 1.5 percent of the appraised value.³⁷ Except for newly acquired land, appraised value is determined by county assessors;³⁸ the state requires county assessors to determine the appraised value of all acquired natural resources land within the county every five years.³⁹

The PILT payment process contains eight or nine steps, depending upon whether a five-year reassessment is due. If a reassessment is due, the first step is to obtain the reassessments; otherwise the process begins with Step 2. The nine steps are listed in Table 3 and detailed in text after the table.

Table 3: Payment Process Steps

| | |
|---|--|
| 1 | Five Year Reassessment (if due) |
| 2 | Certify County-Administered Other Natural Resource Lands |
| 3 | Revenue Reports for Acquired Hunting Land |
| 4 | PILT Report |
| 5 | Certification to Commissioner of Revenue |
| 6 | DOR Preparation for Payment |
| 7 | DNR PILT Reports Sent to Counties |
| 8 | Transmittal of Payments under Minn. Stat. ch. 477A |
| 9 | Transmittal of Payments under Minn. Stat. § 97A.061 |

Step 1: Five-Year Reassessment. Every five years in July, DNR staff runs reports for each county from the DNR’s land records system showing acquired natural resources land owned by the state in the county as of July 1 of that year. One report is for acquired hunting lands and one is for acquired non-hunting lands. DNR staff also runs acquired con-con lands reports for the seven counties where con-con lands are located. The hunting, non-hunting and con-con reports show the township, section, range and forty or government lot where the lands are located.

³⁶ Minn. Stat. § 477A.12, subd. 1(a)(1); *but see* Minn. Stat. § 97A.061, subd. 1(a)(1)-(3) (formula for additional payment for acquired hunting land).

³⁷ Minn. Stat. § 477A.17(a).

³⁸ How is initial value determined? The initial appraised value of *purchased* land used for the PILT calculation is the purchase price and the initial appraised value for *donated land* is the appraised value determined for the DNR Commissioner by a licensed appraiser; if no appraisal is done, the assessor’s estimated market value is considered the appraised value. Minn. Stat. § 477A.12, subd. 3. If the DNR acquires land through a bargain sale, the appraised value, rather than the purchase price is used for the PILT calculation.

³⁹ The most recent five-year reassessment occurred in 2010. The next will occur in 2015.

DNR staff then sends each county assessor two separate mailings, one with the list of hunting lands and the other with the list of non-hunting lands (and con-con lands, if applicable). The DNR's transmittal letter asks the assessor to provide the total assessed land value on each list⁴⁰ no later than December 31 of that year. Although some counties elect to receive payment at the flat per acre rate, most submit valuation information for their acquired lands.

DNR staff enters the county total values for hunting, non-hunting and con-con into the DNR's land records system. The system calculates payments based on three-fourths of one percent of total values. If a county elects the flat rate, a null value is entered. The system calculates the \$5.133 acre flat rate for counties with null values for acquired lands.

Step 2: Certification of County-Administered Other Natural Resources Lands. Each county auditor must certify annually to the DNR Commissioner the number of acres of county-administered other natural resources land (i.e., tax-forfeited lands, other than platted lots within a city) within the county as of July 1 of that calendar year.⁴¹

In July, DNR staff sends each county auditor the total acreage of tax-forfeited land within the county that was certified the previous year, along with a letter requesting certification of the acres of tax-forfeited lands administered by the county as of July 1 of the current year. The letter requests that the auditor provide DNR with lists of any changes in tax-forfeited land ownership, including the township, range, section, forty or government lot and acreage. After DNR receives the certification information, staff updates the DNR's land records system with the new tax-forfeited lands acreage and location information.

Step 3: Revenue Reports for Acquired Hunting Land. The acquired hunting lands payment formula in Minn. Stat. § 97A.061, subdivision 1, paragraph (a)⁴² requires payment of the greatest of:

- 35% of the gross receipts from all special use permits and leases of land acquired for public hunting and game refuges,
- 50 cents per acre on land purchased actually used for public hunting or game refuges, or
- three-fourths of one percent of the appraised value of purchased land actually used for public hunting and game refuges.

To calculate this payment, the DNR's Office of Management and Budget Services (OMBS) prepares a report listing gross receipts by county from special use permits and leases from

⁴⁰ Where payments are based on appraised value, that payment is determined based on the appraised value of "all acquired natural resources land within the county," Minn. Stat. § 477A.12, subd. 1(a)(1). Accordingly, a parcel by parcel breakdown of value is not needed to calculate the payment. However, some county assessors do send the DNR valuations by parcel.

⁴¹ Minn. Stat. § 477A.12, subds. 1 & 2.

⁴² This payment is reduced by the amount paid for the same lands in the same year under Minn. Stat. § 477A.12. Minn. Stat. § 97A.061, subd. 4.

wildlife management areas.⁴³ OMBS prepares the report in late summer or early fall of the year preceding payment. The report shows revenues through June 30.

DNR staff enters each county's total in the OMBS report into the land records system. The system calculates the greater of 35 percent from gross receipts and leases of land, 50 cents per acre or three-fourths of one percent of appraised value.

Step 4: PILT Report. In February of the payment year, DNR staff verifies that PILT data entry is complete. The final report is usually run from the land records system on March 1. The system pulls data from numerous fields for the report and calculates payment amounts. The report includes: Acres and Values, Payments, Public Hunting Lands Summary, County Report, and Lake Vermilion/Soudan State Parks Report. (See Appendix B for more information).

Step 5: Certification to the DOR. By March 1 of the payment year, the DNR Commissioner is required to certify to the DOR Commissioner:

- The number of acres and most recent appraised value of acquired natural resources land (NRL) within each county,
- The number of acres of DNR-administered other NRL within each county,
- The number of acres of county-administered other NRL within each county (based on the certification information received from the county auditors), and
- The number of acres of LUP land within each county.⁴⁴

The DNR submits this information to DOR, along with payment amounts, in spreadsheet format. The spreadsheet contains the Acres and Values and Payment sections of the PILT report generated by the land records system.

Certification of DOT Wetland Replacement Lands. By March 1 of the payment year, the Commissioner of Transportation is required to determine and certify the number of acres and appraised value of lands that DOT acquired from private owners for the purpose of replacing wetland losses caused by transportation projects.⁴⁵ This is only required for counties that contain more than 500 acres of such land at the time of the DOT Commissioner's certification.

Step 6: DOR Preparation for Payment. After the DOR receives the information from the DNR and DOT, DOR staff reviews the payment calculations for accuracy and prepares or updates payment-related documents for the DOR website. (See Appendix C for more information).

⁴³ The only game refuge payment currently made is for Camp Ripley Game Refuge. Its payment is not based on the three-part formula in Minn. Stat. § 97A.061, subd. 1(a).

⁴⁴ Minn. Stat. § 477A.12, subd. 2.

⁴⁵ *Id.*

Step 7: DNR PILT Reports Sent to Counties. In early July, before the payments are transmitted to the counties, DNR staff mails the individual county reports, as well as the statewide acres, values and payments spreadsheet from the PILT report, to each county auditor.

Step 8: Transmittal of Payments under Minn. Stat. ch. 477A. DNR fiscal staff verifies the PILT amounts under Minn. Stat. ch. 477A with DNR's PILT coordinator and then authorizes transfer of the DNR's appropriation for PILT to the DOR. The DOR authorizes the Department of Management & Budget to transmit the payments to the counties electronically with the July 20 installment of local government aid.

Step 9: Transmittal of Payments under Minn. Stat. § 97A.061. In August of the payment year, the DNR makes payments to those counties eligible to receive an acquired hunting lands payment under Minn. Stat. § 97A.061 based on the calculations done by the land records system in March of that year. The DNR also makes a payment to Morrison County for the Camp Ripley Game Refuge. The DNR calculates this payment off system because DNR does not own the refuge and therefore does not have acreage and location information for Camp Ripley Game Refuge in the land records system.

Payments for Goose Management Croplands. Goose management cropland payments are required by July 1.⁴⁶ Each year, Chippewa County submits a bill to the DNR for these lands and DNR pays it upon receipt. The bill shows market valuations, tax capacities, tax capacity rates and amounts due for each parcel.

Section 5: PILT Distribution

Overview of Distribution Methods: After receiving state payments, counties distribute PILT.⁴⁷ The PILT laws have three main distribution methods: one for all acquired hunting lands, one for Lake Vermilion and Soudan Underground Mine State Parks and one for all other payments. There are also general rules for acquired hunting lands and all other payments and some exceptions to the rules, as described below.

Distribution Method 1: Acquired Hunting Lands. As a general rule, payments in lieu of taxes for acquired hunting lands are distributed among the county, towns and school districts like a property tax on the land.⁴⁸ This distribution rule applies to:

- Acquired hunting lands payments made under Minn. Stat. § 477A.12.
- Acquired hunting lands payments made under Minn. Stat. § 97A.061, subdivision 1, paragraph (a).
- Payments to the county for Camp Ripley Game Refuge.

⁴⁶ Minn. Stat. § 97A.061, subd. 3.

⁴⁷ Minn. Stat. §§ 97A.061, subd. 2; 477A.14.

⁴⁸ Minn. Stat. § 97A.061, subd. 2(a).

- Payments to the county for goose management croplands.

There are two exceptions to the general distribution rule, which apply only to one county and one city at this time.⁴⁹

Distribution Method 2: Lake Vermilion and Soudan Underground Mine State Parks. PILT for Lake Vermilion and Soudan Underground Mine State Parks is distributed to the taxing jurisdictions containing the parks, one-third to the school districts; one-third to the town and one-third to the county. The school district's payment is not subject to aid recapture. Taxing jurisdictions receiving PILT for Lake Vermilion and Soudan Underground Mine State Parks may use the payments for their general purposes.⁵⁰

Distribution Method 3: PILT Distribution for All Other Lands. Distribution of payments for all other lands not covered in methods 1 and 2 is governed by a formula set forth in Minn. Stat. § 477A.14. Subdivision 1 of Minn. Stat. § 477A.14 provides for a general distribution scheme with a four-step distribution process (see Table 4).

Subdivision 2 contains a special distribution method for consolidated conservation lands. If a county receives a payment for con-con lands, at least 15 percent of that payment must be distributed to the county for use as provided in Minn. Stat. § 84A.51 (i.e., for rehabilitation and development within the conservation area).⁵¹ The rest of the payment is distributed in proportion to the distributions in the four-step process under Minn. Stat. § 477A.14, subdivision 1 (Table 4).

⁴⁹ These exceptions are: (1) If a county had a population over 39,000 but less than 42,000 in the 1950 federal census, the payment is only distributed among the towns and school districts. The county receives none of the payment. Minn. Stat. § 97A.061, subd. 2(b). This exception only applies to Winona County. (2) If a town received a payment under Minn. Stat. § 97A.061, subd. 2 in calendar year 2006 or thereafter and subsequently incorporated as a city, the city will continue to receive the allocation that would have been made if it had not incorporated. However, payments to the city will terminate if it passes an ordinance that prohibits hunting within the city. Minn. Stat. § 97A.061, subd. 2(c). This exception currently applies only to the City of Columbus in Anoka County.

⁵⁰ Minn. Stat. § 477A.17(c).

⁵¹ Minn. Stat. § 477A.14, subd. 2.

Table 4: Four-Step Process for PILT Distribution for All Other Lands

| | |
|----------------------|---|
| <p>Step 1</p> | <p>Forty percent of the total payment to a county is required to be deposited in the county general revenue fund and used to provide property tax levy reduction. The remaining payments are distributed in the priority set forth in Steps 2-4.</p> |
| <p>Step 2</p> | <p>For each acre of county-administered other natural resources land (tax-forfeited land), 64.2 cents is deposited in a county resource development fund. This fund is used for resource development, forest management, game and fish habitat improvement, recreational development and maintenance of county-administered tax-forfeited lands. If a county receives less than \$5,000 annually for its resource development fund, the county is authorized to deposit that amount in the county general revenue fund instead.</p> |
| <p>Step 3</p> | <p>This step provides for PILT distribution to the townships, and requires the county to distribute PILT to the township within 30 days of the county’s receipt of payment from the state. Organized townships receive a flat per acre payment for each type of natural resources land within their boundaries:</p> <ul style="list-style-type: none"> • 51.3¢ per acre of acquired natural resources land. • 12.8¢ per acre of other natural resources land. • 12.8¢ per acre of LUP land. <p>Payments for lands that are not within an organized township are deposited in the county general revenue fund. Counties and organized townships are to use the payments made under Step 3 to provide property tax levy reduction. However, counties are authorized to allocate payments for lands not within organized townships for road maintenance in unorganized townships. If the payment in lieu of taxes does not fully fund the distribution under Step 3 (because there are insufficient funds left after the Step 1 and 2 distributions), the payments to townships, and to the county general revenue fund for unorganized townships, under Step 3 are prorated.</p> |
| <p>Step 4</p> | <p>If there are any remaining funds after the distribution under Steps 1-3, they are to be deposited in the county general revenue fund. If this distribution exceeds \$35,000, the excess is to be used for property tax levy reduction.</p> |

CHAPTER 2 The History of PILT in Minnesota

Section 1: Chapter Introduction and Overview

PILT is governed by Minn. Stat. §§ 97A.061, 477A.11-.14 and 477A.17. The main PILT law was enacted in 1979 (Minn. Stat. § 477A.11-.14). PILT provisions in the game and fish laws (Minn. Stat. § 97A.061) pre-date the main PILT law by several decades.

The Advisory Group reviewed the historical development of PILT laws to better understand how and why the laws have changed over time. This understanding set the foundation for examining the major issues, trends, and options for possible PILT improvements.

This chapter provides historical highlights of PILT that is described in more detail in Appendix D. The chapter is organized by time period:

- PILT 1933-1978
- Enactment of the Main PILT Law in 1979
- Amendments to PILT Laws 1979-2012

Section 2: PILT 1933-1978

PILT 1933-1960

1933 Origin of PILT. The origin of PILT provisions in the game and fish law⁵² can be traced back to a 1933 law.⁵³ This law established a fund from which the state made payments⁵⁴ to counties to defray the cost of managing lands designated as public hunting grounds and game refuges.⁵⁵ Payments consisted of 35 percent of the revenues from these lands. The county treasurer was required to distribute the payments to the county, towns and school districts where the lands were located as if the payments were taxes on the land.⁵⁶

1945 Laws: Game and Fish Law (Minn. Stat. § 97.49). In 1945, laws relating to the preservation, protection and propagation of wild animals were revised, consolidated and codified as the game and fish law⁵⁷ including a “funds” section⁵⁸ that credited license fees and other receipts to a game and fish fund and appropriated fund monies to the commissioner of conservation for game and fish division activities.⁵⁹ Subdivision 3 provided in part that 35

⁵² Minn. Stat. § 97A.061.

⁵³ 1933 Minn. Laws, ch. 392, § 22 (5630).

⁵⁴ 1933 Minn. Laws, ch., 392, § 22(j) (5630).

⁵⁵ *Id.*

⁵⁶ 1933 Minn. Laws, ch., 392, § 22(k) (5630).

⁵⁷ Minn. Stat. ch. 97.

⁵⁸ 1945 Minn. Laws, ch. 248, § 1 (codified as Minn. Stat. § 97.49).

⁵⁹ The Department of Conservation was the precursor of the Minnesota Department of Natural Resources. *See* 1969 Minn. Laws, ch. 1129, art. 3, § 1.

percent of the gross receipts from all special use permits for public hunting grounds and game refuges be distributed annually to counties with these lands and distributed among the county and respective towns and school districts. The county treasurer was to distribute payments on the same basis as if the payments were received as taxes on the lands. This provision did not apply to state trust lands.⁶⁰

1953 Origin of Per Acre Payments. In 1953, Minn. Stat. § 97.49 was amended⁶¹ to add a flat 15 cents per acre payment to the counties from the game and fish fund as an alternative to a payment equal to 35 percent of the gross receipts from special use permits. The flat rate only applied to “purchased land actually used for public hunting grounds and game refuges.”⁶² The county board was required to elect either the flat-rate payment or the 35 percent of gross receipts and so notify the commissioner of conservation. Language stating that Minn. Stat. § 97.49, subdivision 3 did not apply to tax-forfeited lands was also added.

1955 Origin of Winona County Special Distribution. In 1955, a new subdivision pertaining to the distribution of Winona County’s payments was added to Minn. Stat. § 97.49.⁶³ It provided for distribution of payments to the towns and school districts only, excluding the county as a recipient. This law is reported to have been enacted in relation to the state’s acquisition of land for Whitewater State Park.

PILT 1961-1978

1961 Per Acre Payment Increase and Origin of Goose Management Cropland Payments. Two laws that significantly amended the game and fish PILT provisions were passed in 1961.⁶⁴ One law increased the PILT rate from 15 to 25 cents per acre and required that counties receive the greater of the flat-rate payment or payment based on 35 percent of gross receipts, rather than choosing between them.⁶⁵ The law also added a “leases of lands” provision authorizing payments of 35 percent of gross receipts from special use permits and clarified that gross receipts and leases must be from land “acquired for” public hunting grounds or game refuges.

The other 1961 law added a new subdivision providing for special payments to counties having more than 1,000 acres of crop land purchased by the state for wild goose management.⁶⁶ The state was to make payments equivalent to what property taxes would have been had they been assessed on the same basis as comparable private adjacent land. Payments made from the game and fish fund were to be a credit against amounts payable under Minn. Stat. § 97.49, subdivision

⁶⁰ 1945 Minn. Laws, ch. 248, § 1.

⁶¹ 1953 Minn. Laws, ch. 741, § 38.

⁶² *Id.*

⁶³ 1955 Minn. Laws, ch. 393, § 1.

⁶⁴ 1961 Minn. Laws, ch. 470, § 1; 1961 Minn. Laws ch. 587, § 1.

⁶⁵ 1961 Minn. Laws, ch. 587, § 1.

⁶⁶ 1961 Minn. Laws, ch. 470, § 1.

3 (i.e., payments for hunting grounds or game refuges made at the flat rate or based on 35 percent of gross receipts).⁶⁷

1971 Per Acre Payment Increase. In 1971, game and fish PILT provisions were amended to increase the flat-rate payment option from 25 to 50 cents an acre.⁶⁸

Section 3: Enactment of the Main PILT Law in 1979

The Laws of Minnesota for 1975 required that the Legislative Commission on Minnesota Resources (LCMR) report its findings and recommendations to the legislature regarding payments in lieu of taxes on state and federally owned lands. In accordance with this requirement, the LCMR undertook a study jointly with the Tax Study Commission. Phase I of the study addressed public land that was held for natural resource management. Its results were published in 1977.⁶⁹ The eventual outcome of this study was the creation of a comprehensive system that provided payments in lieu of taxes for all state-owned lands administered by the Department of Natural Resources.

The main PILT law, Minn. Stat. §§ 477A.11.-14, was enacted in 1979.⁷⁰ This law provided for payments for all lands owned by the state and administered by the DNR Commissioner, and tax-forfeited land (other than platted lots within a city), owned by the state and administered by either the commissioner or the county in which the land was located. The 1979 PILT law also defined two classes of land established three payment rates, source of appropriations, time of payments, and other factors, per Table 5.

Table 5: Components of the 1979 PILT Law

| Component | Description |
|-------------|--|
| Definitions | “Acquired natural resources land” was defined as “land presently administered by the commissioner in which the state acquired by purchase, condemnation, or gift, a fee title interest in lands which were previously privately owned;” and “Other natural resources land” included all other state-owned lands administered by the commissioner and tax-forfeited lands administered either by the commissioner or the counties. ⁷¹ |
| Payments | The law specified three payment rates: <ul style="list-style-type: none"> • The acquired natural resources land (NRL) payment was \$3 times the number of acres of acquired NRL within the county. • The county-administered other NRL payment was 75¢ times the number of acres of county-administered NRL within the county. • The DNR-administered other NRL payment was 37.5¢ times the number of acres of DNR-administered NRL within the county.⁷² |

⁶⁷ *Id.*

⁶⁸ 1971 Minn. Laws, ch. 562, § 1.

⁶⁹ Phase 1: Natural Resource Lands, Minnesota Public Lands Impact Study, Legislative Commission on Minnesota Resources, in cooperation with the Tax Study Commission and Barton-Aschman Associates, Inc., March, 1977. See Appendix D for additional information.

⁷⁰ 1979 Minn. Laws, ch. 303, art. 8, §§ 1-4.

⁷¹ 1979 Minn. Laws, ch. 303, art. 8, § 1 (codified as Minn. Stat. § 477A.11 (Supp. 1979)).

| Component | Description |
|-------------------------------|--|
| Payments Made | Payments were made from an appropriation to the commissioner of natural resources from the general fund. Payments were for the lands located in each county as of July 1 of each year. ⁷³ |
| Ineligible Lands | Goose management croplands, for which payments were made under MS § 97.49, subd. 7, and lands acquired for St. Croix Wild River State Park, for which payments were made under 1973 Minn. Laws 1973, chapter 567, were ineligible for payments under 477A.12, subd. 2. ⁷⁴ |
| Time of Payments; Deductions | Payments were made in January of the “year next following certification.” ⁷⁵ Deductions were made for any payments made to a county or township during the preceding year under: <ul style="list-style-type: none"> • MS § 84A.51 (consolidated conservation areas fund) • MS § 89.036 (state forest fund) • MS § 97.49, subd. 3 (acquired hunting lands PILT); and • MS § 272.68, subd. 3 (rentals paid to county for leased state-owned lands). |
| Distribution and Use of Funds | The distribution and use provisions of the 1979 PILT law were very similar to the current distribution and use provisions of MS § 477A.14. There was a four-step process for PILT distribution. ⁷⁶ These four steps are described in Table A in Appendix D. |

Section 4: Amendments to PILT Laws 1979-2012

PILT Amendments 1979-1999

1979 Addition of Land-Value-Based Payment Option to Game and Fish Law PILT, Minn. Stat. § 97.49. A 1979 amendment incorporated a federal payment model into Minnesota’s acquired hunting lands payment model. Federal⁷⁷ payments in lieu of taxes were based, in part, on a formula that paid the greater of three-fourths of one percent of the appraised value of the lands.⁷⁸ The 1979 amendment to Minn. Stat. § 97.49:

- added a third payment alternative of three-fourths of one percent of the appraised value of purchased land used for public hunting grounds and game refuges to the 35 percent of gross receipts or 50 cents per acre flat rate;⁷⁹ and
- described how the appraised value was to be determined.⁸⁰

1986 Recodification. PILT provisions were codified as a separate section in the game and fish laws (Minn. Stat. § 97A.061) in 1986, entitled “Payment in Lieu of Taxes.”⁸¹ The recodification

⁷² 1979 Minn. Laws, ch. 303, art. 8, § 2 (codified as Minn. Stat. § 477A.12 (Supp. 1979)).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ 1979 Minn. Laws, ch. 303, art. 8, § 3 (codified as Minn. Stat. § 477A.13 (Supp. 1979)).

⁷⁶ 1979 Minn. Laws, ch. 303, art. 8, § 4 (codified as Minn. Stat. § 477A.14 (Supp. 1979)).

⁷⁷ The federal model is described in the 1977 Minnesota Public Lands Impact Study. See more information in Appendix D.

⁷⁸ These payments, made by the U.S. Fish and Wildlife Service and the U.S. Forest Service were referenced in the Minnesota Public Lands Impact Study, Phase I, p. 47.

⁷⁹ 1979 Minn. Laws, ch. 301, § 8.

⁸⁰ *Id.* See Appendix D for an explanation about how appraised value was determined.

also reorganized and modernized the language in Minn. Stat. § 97.49, but did not substantively change the law.

1990 PILT Authorized for LUP Lands. In 1990, the definition of “other natural resources land” in the main PILT law was expanded to include land utilization project (LUP) land leased from the United States and administered by the commissioner of natural resources.⁸² As with all other commissioner-administered lands classified as “other natural resources lands,” these lands received payment at the 37.5 cents per acre rate.

1995 Law to Add Land-Value-Based Payment Option to Minn. Stat. § 477A.12, Subdivision 1. In 1995, the legislature passed a law to amend the acquired lands payment rate in the main PILT law to the greater of \$3 per acre or three-fourths of one percent of the appraised value.⁸³ The amendment also defined appraised value as the purchase price for the first five years after acquisition, or for donated land, the value determined for DNR by a licensed appraiser (or, if no appraisal was done, the assessor's estimated market value). A county assessor was to appraise value every five years.⁸⁴

By adding the three-fourths of one percent of appraised value payment option for acquired lands, the legislature provided counties with the opportunity to receive substantially higher payments than under the \$3 per acre flat rate. However, there was no corresponding change to Minn. Stat. § 477A.14, subdivision 1, paragraph (b), which provides for distribution to townships. Instead, the township share of acquired lands payments remained fixed at 30 cents per acre (10% of the \$3 per acre flat rate).

PILT Amendments 2000-2009

2000 Redefinition of Acquired Natural Resources Land to Include Certain Con-Con Lands. The definition of “acquired natural resources land” in the main PILT law was amended to include “lands acquired by the state under chapter 84A [i.e., con-con lands] that are designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas” and the definition of “other natural resources lands” was amended to exclude those con-con lands now defined as “acquired.”⁸⁵ The effect of this redefinition was a payment rate change for acquired con-con lands from the lowest rate (37.5¢/acre) to the highest rate in Minn. Stat. § 477A.12 (the greater of \$3/acre or three-fourths of one percent of the appraised value of all acquired lands).

⁸¹ 1986 Minn. Laws, ch. 386, art. 1, § 11; *see also* 1986 Minn. Laws, ch. 386, art. 4, §§ 29, 30 (changes to Minn. Stat. ch. 477A to correspond to recodification of Minn. Stat. § 97.49).

⁸² 1990 Minn. Laws, ch. 604, art. 4, § 16.

⁸³ 1995 Minn. Laws, ch. 220, § 125.

⁸⁴ *Id.*

⁸⁵ 2000 Minn. Laws, ch. 485, §§ 18, 19.

Other 2000 Amendments included an amendment to section 477A.12 to direct the DNR to transfer the general fund appropriation for PILT to the DOR for county payments⁸⁶ and an amendment to chapter 477A to add an inflation adjustment.⁸⁷

2005 Law Authorizing PILT for Camp Ripley Game Refuge. Minn. Stat. § 97A.061 was expanded to authorize payment for land “owned by another state agency for military purposes and designated as a game refuge under [Minn. Stat. §] 97A.085.”⁸⁸ This amendment created an annual payment for Camp Ripley Game Refuge and enacted a rate of “50 percent of the dollar amount adjusted for inflation as determined under section 477A.12, subdivision 1, paragraph (a), clause (1), multiplied by the number of acres.”

2005 LUP Lands Payment Rate Increase. LUP land was removed from the definition of “other natural resources land” in the main PILT law and put into a separate definition category. The LUP payment rate was changed from 37.5 cents to 75 cents per acre (with both rates adjusted for inflation).⁸⁹

2008 PILT Law for Vermilion State Park (Minn. Stat. § 477A.17). The Legislature established Lake Vermilion State Park⁹⁰ and authorized a special PILT rate for it: 1.5 percent of the appraised land value (instead of the usual acquired natural resources land payment rate).⁹¹ The PILT provisions were codified as Minn. Stat. §477A.17. The “appraised value” for the first five years after acquisition was defined as “the purchase price of the land, plus the value of any portion of the land that is acquired by donation.” The law also created a distribution method for the park different from methods established in Minn. Stat. §§ 97A.061, subd. 2 and 477A.14.⁹²

Most Recent PILT Amendments (2010-2012)

2010 Amendment to Minn. Stat. § 477A.17. The statute was amended to change the start of payments to fiscal year 2012 and to expand Minn. Stat. § 477A.17 to make Soudan Underground Mine State Park lands eligible for PILT at the 1.5 percent of appraised value payment rate.⁹³

2011 Repeal of Inflation Adjustment for Flat Payment Rates. The most recent amendments to PILT laws occurred in the 2011 Special Session. They repealed inflation adjustments to flat-rate payments and distributions and repealed Minn. Stat. § 477A.145, which described the inflation

⁸⁶ 2000 Minn. Laws, ch. 490, art. 6, § 11.

⁸⁷ 2000 Minn. Laws, ch. 490, art. 6, §§ 10, 11, 13, 14.

⁸⁸ 2005 Minn. Laws, 1st Special Session, ch. 1, art. 2, § 96.

⁸⁹ 2005 Minn. Laws, 1st Special Session, ch. 3, art. 1, §§ 31-33.

⁹⁰ 2008 Minn. Laws, ch. 368, art. 3, § 2.

⁹¹ *Id.*

⁹² Specifically, the law provides that payments are to be distributed “to the taxing jurisdictions containing the property as follows: one-third to the school districts; one-third to the town; and one-third to the county.” The law further provides that “[t]he payment to school districts is not a county apportionment under Minn. Stat. §127A.34 and is not subject to aid recapture” and allows each of the taxing districts receiving payments to “use the payments for their general purposes.”

⁹³ 2010 Minn. Laws, ch. 389, art. 1, § 25.

adjustment calculation process.⁹⁴ The amendments also raised the flat payment and distribution rates and froze them at the inflation adjusted 2011 levels (see Table 6).

The amendments that repealed the inflation adjustment for flat-rate payments will not prevent future increases for any acquired natural resources lands paid at the three-fourths of one percent of appraised value rate. However, the acquired lands payments for counties that elect payment at the flat rate rather than the value-based rate⁹⁵ will be frozen at \$5.133 per acre.

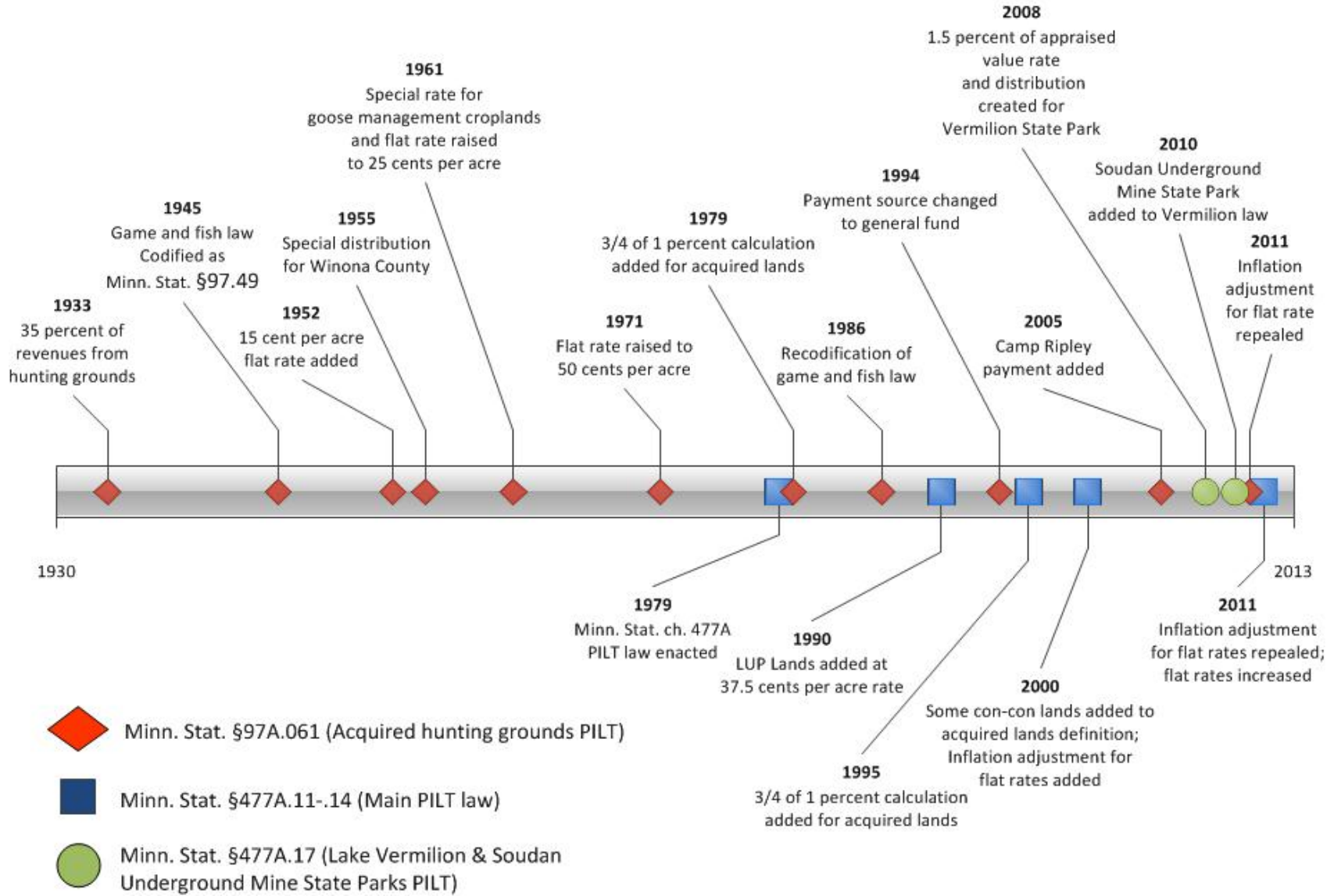
Table 6: Pre-Amendment and New Rates by Land Class, Distribution, and Statute

| By land class | Flat rate before 2011 amendments: <u>all adjusted for inflation</u> | Flat rate after 2011 amendments | Applicable statute(s) |
|--|--|--|------------------------------|
| Acquired | \$3/acre | \$5.133/acre | MS § 477A.12, subd. 1(a)(1) |
| County-admin. other | 75¢/acre | \$1.283/acre | MS § 477A.12, subd. 1(a)(2) |
| LUP | 75¢/acre | \$1.283/acre | MS § 477A.12, subd. 1(a)(3) |
| DNR-admin. other | 37.5¢/acre | 64.2¢/acre | MS § 477A.12, subd. 1(a)(4) |
| Camp Ripley Game Refuge | 50% of \$3/acre | 50% of \$5.133/acre | MS § 97A.061, subd. 1(b) |
| By distribution | Flat rate before 2011 amendments: <u>all adjusted for inflation</u> | Flat rate after 2011 amendments | Applicable statute(s) |
| County-admin. other distribution to county resource development fund | 37.5¢/acre | 64.2¢/acre | MS § 477A.14, subd. 1(a) |
| Acquired land distribution to townships | 30¢/acre | 51.3¢/acre | MS § 477A.14, subd. 1(b) |
| Other natural resources and LUP land distribution to townships | 7.5¢/acre | 12.8¢/acre | MS § 477A.14, subd. 1(b) |

⁹⁴ 2011 Minn. Laws, 1st Special Session, ch. 7, art. 6, § 1 (amendment to Minn. Stat. § 97A.061, subd. 1(b) repealing inflation adjustment to payment for Camp Ripley Game Refuge); § 19 (amendment to Minn. Stat. § 477A.11 deleting reference to Minn. Stat. § 477A.145), § 20 (amendment to Minn. Stat. § 477A.12 repealing inflation adjustments to flat-rate payments for acquired natural resources land, other natural resources land and LUP land and deleting references to Minn. Stat. § 477A.145), § 21 (amending Minn. Stat. § 477A.14 to repeal inflation adjustments to amounts distributed to counties for deposit in county resource development funds and in the county general revenue fund for lands located within unorganized townships, and to townships for lands located within their boundaries; references to Minn. Stat. § 477A.145 deleted), § 27 (repeal of Minn. Stat. § 477A.145).

⁹⁵ Currently, there are seven such counties: Beltrami, Kittson, Lake of the Woods, Marshall, Pennington, Red Lake and Roseau.

Figure 1. PILT Legislative Timeline



CHAPTER 3 Analysis and Recommendations

Section 1: Chapter Introduction and Overview

Chapter 3 presents the Advisory Group’s recommendations for changing PILT. Table 7 lists the recommendations, and the rest of the chapter explains the issues, information and discussion surrounding each recommendation. As noted earlier, the Advisory Group developed recommendations by reviewing and analyzing a wide variety of current and historical PILT-related data, reports, and other sources of information (see Appendix A).

Table 7: Recommended Changes to PILT for Natural Resource Lands

| Issue | Recommendations |
|--------------|---|
| PILT Purpose | <p>Rec 1: Minn. Stat.ch. 477A should be amended to include a purpose statement for PILT, including concepts such as</p> <ul style="list-style-type: none"> • The loss of tax base and the need to provide services on state land • The need to manage state land (in the case of tax-forfeited land) • The need to address the disproportionate impact of state land ownership on counties with large proportions of state land. |
| PILT Rates | <p>Rec 2a: Simplify the rate structure by</p> <ul style="list-style-type: none"> • eliminating special exceptions for goose management croplands • eliminating the extra hunting lands payment under Minn. Stat. § 97A.061, subd. 1 • moving remaining Minn. Stat. § 97A.061 provisions into Minn. Stat. ch. 477A. <p>Rec 2b: Clarify, standardize and streamline the acquired land valuation process:</p> <ul style="list-style-type: none"> • DOR, in consultation with the Minnesota Association of Assessing Officers (MAAO), should develop guidelines and recommendations for appraising PILT lands to establish more consistent and standardized valuation for PILT-eligible land. • Change the five-year reassessments to a three- or six-year cycle to coincide with assessments of exempt land for DOR. Assessors are currently required to value exempt lands once every six years. Adopting a three-year cycle would cause every other PILT assessment to fall on the statutorily required exempt assessment; adopting a six-year cycle would coincide with the exempt property assessment for DOR. • Amend Minn. Stat. ch. 477A to provide DOR with the authority to monitor land values on payment-in-lieu-of-tax properties. • DNR should solicit recommendations from the DOR and MAAO on how to improve identification and description of PILT land and to improve the user-friendliness of the assessment and payment processes. |

| Issue | Recommendations |
|-------------------------------------|---|
| | <p>Rec 2c: If the legislature adjusts PILT rates in the future, criteria for setting the rates should consider:</p> <ul style="list-style-type: none"> • The reason the state acquired the land • The discretion the that county has to sell the land • Where the revenue generated from the lands goes (to the county, to the state) – and the net to all tax districts • The character of the land (wetland, etc.), but noting that the public value of the land may differ from the private (market) value. |
| Pymt Adequacy | <p>Rec 3: The legislature should consider restoring annual inflationary adjustments to flat-rate PILT payments.</p> |
| Impact of Add'l Land | <p>Rec 4: The legislature and DNR should enhance existing efforts to inform the public about PILT and the drivers of PILT cost increases.</p> |
| PILT Alternatives | <p>Rec 5: The legislature should further develop alternatives to pay for future PILT obligations, including an examination of a “trust fund” approach for new land acquisitions.</p> |
| Payment Distribution to Local Gov't | <p>Rec 6: The recommendations of the Minnesota Department of Education’s Education Finance Working Group should be monitored for implications for PILT payments and payment distributions. (See also DNR Recommendations)</p> |
| DNR recommendations | <p>Rec 7: The legislature should revise the distribution formula to provide townships with at least 10 percent of the actual payment to the county for acquired lands within the townships’ boundaries to be consistent with historic distribution percentages.</p> |

Issue 1: PILT Purpose

The Advisory Group reviewed the historical and current purpose of PILT and whether its purpose needs to change in the future. The group considered the purpose as defined legally and as generally understood.

PILT Purpose Findings and Discussion: Historically and currently, PILT is intended to:

- **Compensate local government for the loss of tax base:** Several members noted that the main PILT law was adopted (1979) during the time when the state was expanding state land and parks. State officials encountered resistance from local government officials who were concerned about the potential loss of their tax base and a perceived increased burden on local governments associated with the state lands, such as the need for enhanced roads and emergency services. Both the DNR and legislative leadership concluded that, if more land was to be acquired in the future, there would need to be some sort of compensation to local government.
- **Address the disproportionate impact on counties:** Legislative discussions in the 1970s also considered the disproportionate impact that state land acquisition was having on some counties. Counties that had relatively large proportions of their land base owned by the state faced larger burdens for existing taxpayers than other counties. Legislators from these counties stressed that the land was for statewide recreational benefit, but the burden to maintain it was falling on their residents. A Park Rapids senator noted in 1979, “My payment-in-lieu of taxes bill would spread the cost of maintaining lands for public use across-the-state—a much fairer approach.”⁹⁶ Currently, local governments across the state—and especially in Northern and North Central Minnesota—lose significant property tax revenues due to the presence of tax-exempt lands within their boundaries. Also, local property owners may pay higher property taxes to compensate for those lost revenues.

PILT Purpose Conclusions:

- The Advisory Group generally confirmed that the original purposes of PILT are valid for the future. For acquired natural resources land, PILT provides an offset for the loss of tax base and, in some cases, for the local expenses of managing the land.
- There is no clear purpose statement in statute, except for a related statement added to Minn. Stat. § 477A.12, subdivision 1, paragraph (a) in 2000, which states: “As an offset for expenses incurred by counties and towns in support of natural resources lands, the following amounts are annually appropriated to the commissioner of natural resources from the general fund for transfer to the commissioner of revenue.”

⁹⁶ Senator Gerald Willet, *Willet Senate Report*, Park Rapids Enterprise, May 5, 1979.

PILT Purpose Related Comments: Comments or caveats raised by some members include:

- Future PILT payments would be viewed as “compensating” local government only if they *adequately* compensate local government to fulfill these purposes.
- PILT payments have allowed counties to hire land managers and have enabled other local activities.
- PILT helps allay public concerns related to land acquisition, consistent with the primary historical driver for the development of the PILT legislation.

PILT Purpose Recommendation

Recommendation 1: PILT Purpose Recommendation: Minn. Stat. ch. 477A should be amended to include a purpose statement for PILT, including concepts such as:

- The loss of tax base and the need to provide services on state land
- The need to manage state land (in the case of tax-forfeited land)
- The need to address the disproportionate impact of state land ownership on counties with large proportions of state land.

Issue Two: PILT Rates

The Advisory Group examined how PILT rates have been developed in the past⁹⁷ and reviewed PILT-eligible land by type, PILT rates, a DOR inflation analysis, federal PILT policy and PILT payment distribution. The group then developed recommendations concerning future rates.

PILT Rates Findings and Discussion

- **The percentage of DNR-administered natural resource land compared to total land area varies considerably by county** (Figure 2, Table 7a).
- **PILT payments and acres-covered vary considerable by land class** (Figure 3).
- **Compensation rates vary significantly for different types of land.** The rates range from a low of 64.2 cents per acre for “DNR-administered other natural resources land” to a high of 1.5 percent of the appraised value of Lake Vermilion and Soudan Underground Mine State Park lands. Due to these differing compensation rates, there are land types such as school trust lands that account for a large proportion of the PILT acreage, but a small percentage of PILT payments.
- **Twin Cities metro counties receive the highest average per-acre payments.** The table showing county-level payments showed that about \$2.5 million, or 10 percent of the payments for FY2011, were going to the seven counties in the Twin Cities metro area, even

⁹⁷ See a thorough analysis of the historical development of PILT in Appendix D.

though the seven metro counties have only 43,061 acres, or 0.51 percent of the state's natural resources land.

- **Inflation affects the payments rates and their adequacy. Flat rate payments have not kept pace with inflation, while payments based on land values have increased significantly.** Flat rate payments were not adjusted for inflation between 1980 and 2000. If annual adjustments had been made, the flat rates would be 81 percent higher than they are now, according to a DOR analysis (Table 8). At the same time, payments based on land values have increased significantly at five year increments when lands are re-assessed, and as a whole have exceeded the rate of inflation. (Figure 3).
- **Current PILT rates are artifacts of legislative history and modeled after federal rates.** In the legislative development of the PILT rate structure, members noted:
 - The “three-fourths of one percent” rate for acquired lands was modeled after the federal PILT rate.
 - To the general public, rates have not been analytically or rationally set. They are an artifact of history and the sometimes are the outcomes of the political process.
 - Local resistance to DNR land acquisition prompted many of the incremental changes and special exceptions to the existing rate structure or requests for compensation, as described in Table 9.

Figure 2a: Ratio of FY2011 County Payment to Total FY2011 PILT Payment

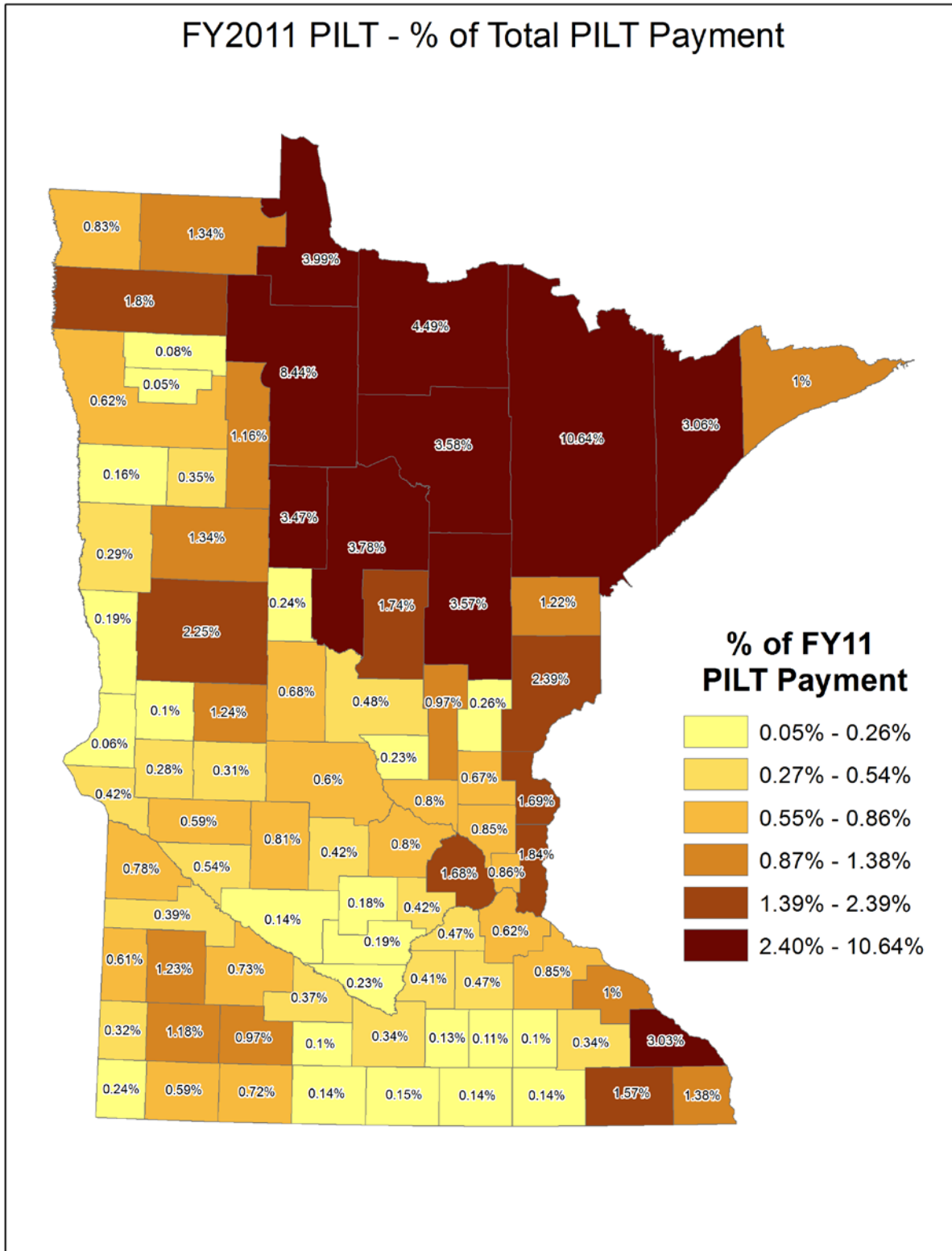


Table 7a: PILT Data FY2011

| County | PILT Acres | Total Acres | Percent of State-owned land | Percent of total PILT Payment | Payment Rank |
|--------------------------|-------------------|--------------------|------------------------------------|--------------------------------------|---------------------|
| AITKIN | 614,832.90 | 1,166,318.00 | 52.72% | 3.572% | 7 |
| ANOKA | 19,648.47 | 273,269.00 | 7.19% | 0.850% | 32 |
| BECKER | 131,263.18 | 842,144.00 | 15.59% | 1.345% | 20 |
| BELTRAMI | 717,385.40 | 1,606,830.00 | 44.65% | 8.440% | 2 |
| BENTON | 2,415.26 | 262,020.00 | 0.92% | 0.234% | 70 |
| BIG STONE | 9,718.53 | 317,772.00 | 3.06% | 0.419% | 53 |
| BLUE EARTH | 4,963.30 | 476,271.00 | 1.04% | 0.340% | 61 |
| BROWN | 5,046.43 | 387,992.00 | 1.30% | 0.372% | 58 |
| CARLTON | 151,585.25 | 550,663.00 | 27.53% | 1.217% | 24 |
| CARVER | 1,530.32 | 226,919.00 | 0.67% | 0.416% | 55 |
| CASS | 447,442.57 | 1,305,702.00 | 34.27% | 3.779% | 5 |
| CHIPPEWA | 8,664.56 | 371,891.00 | 2.33% | 0.540% | 49 |
| CHISAGO | 17,857.00 | 268,462.00 | 6.65% | 1.686% | 16 |
| CLAY | 10,832.99 | 670,460.00 | 1.62% | 0.294% | 64 |
| CLEARWATER | 145,819.72 | 642,595.00 | 22.69% | 1.157% | 26 |
| COOK | 145,053.44 | 940,621.00 | 15.42% | 0.997% | 28 |
| COTTONWOOD | 7,935.93 | 407,863.00 | 1.95% | 0.970% | 30 |
| CROW WING | 136,765.74 | 649,496.00 | 21.06% | 1.739% | 15 |
| DAKOTA | 6,711.62 | 369,042.00 | 1.82% | 0.617% | 43 |
| DODGE | 1,243.57 | 281,099.00 | 0.44% | 0.101% | 83 |
| DOUGLAS | 6,738.44 | 403,173.00 | 1.67% | 1.237% | 22 |
| FARIBAULT | 3,883.91 | 454,309.00 | 0.85% | 0.152% | 75 |
| FILLMORE | 14,827.64 | 551,471.00 | 2.69% | 1.571% | 18 |
| FREEBORN | 3,675.92 | 449,092.00 | 0.82% | 0.145% | 76 |
| GOODHUE | 11,788.22 | 489,431.00 | 2.41% | 0.845% | 33 |
| GRANT | 3,571.82 | 349,984.00 | 1.02% | 0.105% | 82 |
| HENNEPIN | 2,186.54 | 354,078.00 | 0.62% | 1.682% | 17 |
| HOUSTON | 17,094.08 | 361,386.00 | 4.73% | 1.377% | 19 |
| HUBBARD | 225,897.95 | 599,393.00 | 37.69% | 3.466% | 8 |
| ISANTI | 6,313.63 | 281,719.00 | 2.24% | 0.670% | 42 |
| ITASCA | 614,877.20 | 1,724,610.00 | 35.65% | 3.576% | 6 |
| JACKSON | 6,436.88 | 446,459.00 | 1.44% | 0.716% | 40 |
| KANABEC | 32,960.32 | 338,018.00 | 9.75% | 0.265% | 66 |
| KANDIYOHI | 8,791.21 | 499,574.00 | 1.76% | 0.810% | 35 |
| KITSON | 75,730.53 | 705,310.00 | 10.74% | 0.829% | 34 |
| KOOCHICHING | 1,379,922.71 | 1,986,232.00 | 69.47% | 4.489% | 3 |
| LAC QUI PARLE | 19,642.74 | 494,086.00 | 3.98% | 0.775% | 38 |
| LAKE | 339,730.63 | 1,363,104.00 | 24.92% | 3.065% | 9 |
| LAKE OF THE WOODS | 487,544.92 | 834,731.00 | 58.41% | 3.989% | 4 |
| LESUEUR | 4,513.52 | 284,279.00 | 1.59% | 0.410% | 56 |
| LINCOLN | 8,977.99 | 337,117.00 | 2.66% | 0.612% | 45 |
| LYON | 11,797.14 | 456,806.00 | 2.58% | 1.228% | 23 |
| MCLEOD | 3,270.51 | 312,655.00 | 1.05% | 0.175% | 73 |

| County | PILT Acres | Total Acres | Percent of State-owned land | Percent of total PILT Payment | Payment Rank |
|-----------------|--------------|--------------|-----------------------------|-------------------------------|--------------|
| MAHNOMEN | 36,485.66 | 361,558.00 | 10.09% | 0.347% | 59 |
| MARSHALL | 116,670.17 | 1,160,353.00 | 10.05% | 1.798% | 14 |
| MARTIN | 2,973.52 | 450,657.00 | 0.66% | 0.140% | 77 |
| MEEKER | 3,610.99 | 384,400.00 | 0.94% | 0.416% | 54 |
| MILLE LACS | 68,457.93 | 367,081.00 | 18.65% | 0.975% | 29 |
| MORRISON | 12,191.41 | 723,047.00 | 1.69% | 0.483% | 50 |
| MOWER | 2,825.52 | 455,017.00 | 0.62% | 0.136% | 79 |
| MURRAY | 11,418.16 | 446,697.00 | 2.56% | 1.182% | 25 |
| NICOLLET | 4,114.26 | 280,475.00 | 1.47% | 0.234% | 69 |
| NOBLES | 4,531.26 | 457,973.00 | 0.99% | 0.592% | 47 |
| NORMAN | 8,564.87 | 560,798.00 | 1.53% | 0.156% | 74 |
| OLMSTED | 5,092.44 | 418,741.00 | 1.22% | 0.342% | 60 |
| OTTERTAIL | 25,017.29 | 1,268,299.00 | 1.97% | 2.249% | 12 |
| PENNINGTON | 7,830.54 | 393,898.00 | 1.99% | 0.079% | 85 |
| PINE | 234,868.48 | 906,117.00 | 25.92% | 2.393% | 11 |
| PIPESTONE | 4,267.07 | 298,509.00 | 1.43% | 0.323% | 62 |
| POLK | 27,171.96 | 1,269,381.00 | 2.14% | 0.617% | 44 |
| POPE | 6,003.85 | 427,225.00 | 1.41% | 0.315% | 63 |
| RAMSEY | 400.70 | 107,872.00 | 0.37% | 0.855% | 31 |
| RED LAKE | 3,540.44 | 276,936.00 | 1.28% | 0.051% | 87 |
| REDWOOD | 7,054.91 | 560,938.00 | 1.26% | 0.728% | 39 |
| RENVILLE | 1,885.32 | 625,494.00 | 0.30% | 0.137% | 78 |
| RICE | 5,671.61 | 319,403.00 | 1.78% | 0.474% | 51 |
| ROCK | 2,547.93 | 309,237.00 | 0.82% | 0.238% | 68 |
| ROSEAU | 294,155.66 | 1,075,677.00 | 27.35% | 1.337% | 21 |
| SAINT LOUIS | 1,472,498.85 | 4,039,968.00 | 36.45% | 10.640% | 1 |
| SCOTT | 6,072.44 | 226,917.00 | 2.68% | 0.466% | 52 |
| SHERBURNE | 7,446.53 | 280,963.00 | 2.65% | 0.799% | 36 |
| SIBLEY | 2,043.15 | 373,069.00 | 0.55% | 0.193% | 71 |
| STEARNS | 9,441.94 | 864,506.00 | 1.09% | 0.599% | 46 |
| STEELE | 2,237.79 | 274,478.00 | 0.82% | 0.108% | 81 |
| STEVENS | 3,180.52 | 356,377.00 | 0.89% | 0.283% | 65 |
| SWIFT | 10,941.56 | 476,035.00 | 2.30% | 0.592% | 48 |
| TODD | 14,173.73 | 604,800.00 | 2.34% | 0.681% | 41 |
| TRAVERSE | 1,033.07 | 365,966.00 | 0.28% | 0.062% | 86 |
| WABASHA | 18,007.56 | 342,435.00 | 5.26% | 0.997% | 27 |
| WADENA | 30,929.66 | 344,182.00 | 8.99% | 0.243% | 67 |
| WASECA | 2,470.48 | 269,021.00 | 0.92% | 0.127% | 80 |
| WASHINGTON | 6,510.95 | 253,669.00 | 2.57% | 1.841% | 13 |
| WATONWAN | 1,534.22 | 277,480.00 | 0.55% | 0.096% | 84 |
| WILKIN | 6,684.47 | 479,170.00 | 1.40% | 0.192% | 72 |
| WINONA | 34,730.04 | 403,488.00 | 8.61% | 3.032% | 10 |
| WRIGHT | 7,172.81 | 423,758.00 | 1.69% | 0.795% | 37 |
| YELLOW MEDICINE | 7,892.51 | 484,992.00 | 1.63% | 0.386% | 57 |

Figure 3: Percent of FY2011 PILT Payments by Acres, Payment and Land Class

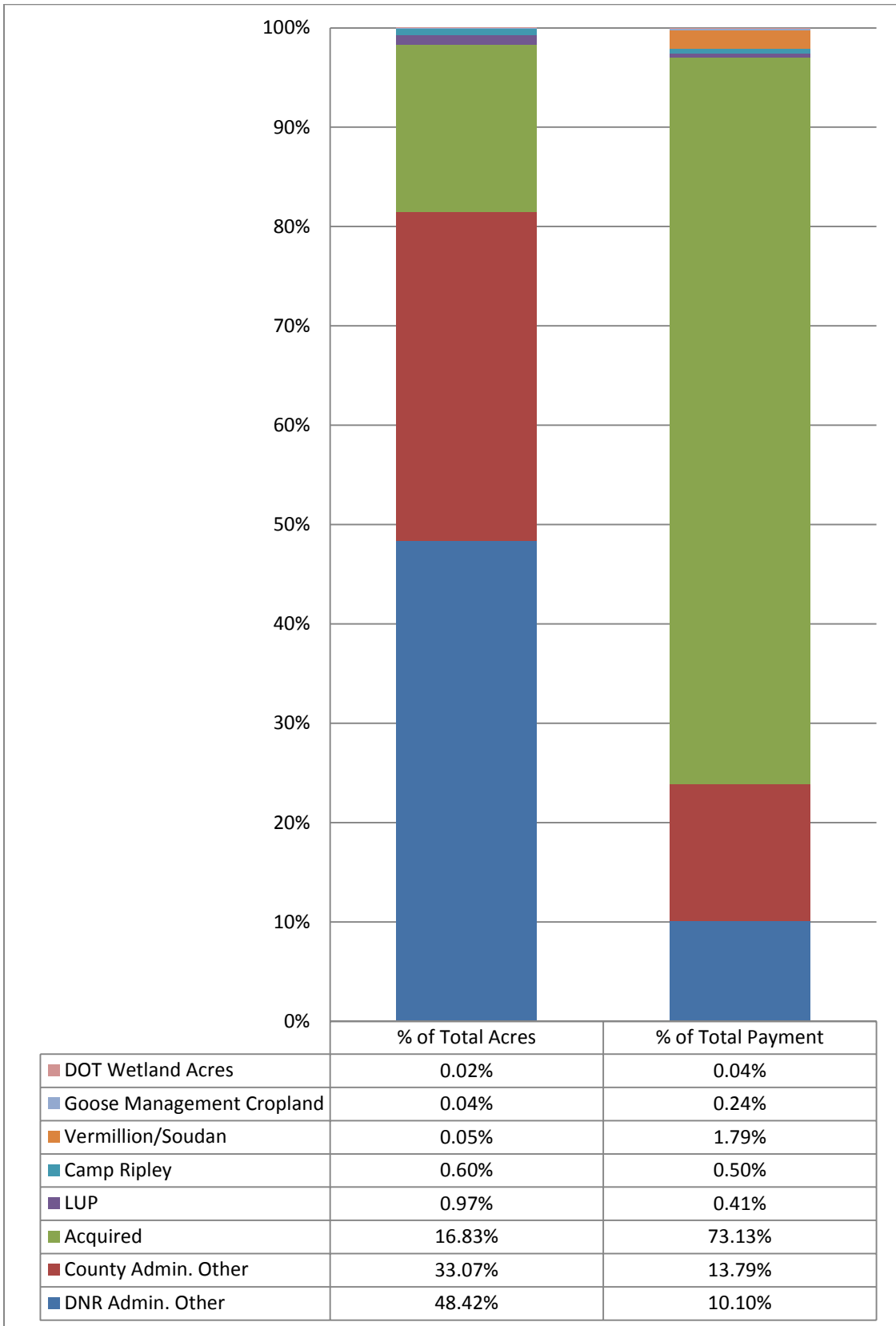


Table 8: DOR Analysis of Rates – Actual and Hypothetical

PILT Per Acre Payment Rates - Hypothetical and Actual

2/23/2012

Hypothetical: original per acre payment rates adjusted annually for inflation

Laws of Minnesota 1979, chapter 303, article 8.

| Pay Year | Acquired Natural Resource Land | | Other Natural Resource Land | | | |
|----------|--------------------------------|---------|-----------------------------|---------|--------------|---------|
| | Hypothetical | Actual | County Admin | | DNR Admin | |
| | | | Hypothetical | Actual | Hypothetical | Actual |
| 1980 | \$3.000 | \$3.000 | \$0.750 | \$0.750 | \$0.375 | \$0.375 |
| 1981 | 3.298 | 3.000 | 0.824 | 0.750 | 0.412 | 0.375 |
| 1982 | 3.509 | 3.000 | 0.877 | 0.750 | 0.439 | 0.375 |
| 1983 | 3.664 | 3.000 | 0.916 | 0.750 | 0.458 | 0.375 |
| 1984 | 3.827 | 3.000 | 0.957 | 0.750 | 0.478 | 0.375 |
| 1985 | 3.975 | 3.000 | 0.994 | 0.750 | 0.497 | 0.375 |
| 1986 | 4.093 | 3.000 | 1.023 | 0.750 | 0.512 | 0.375 |
| 1987 | 4.263 | 3.000 | 1.066 | 0.750 | 0.533 | 0.375 |
| 1988 | 4.396 | 3.000 | 1.099 | 0.750 | 0.550 | 0.375 |
| 1989 | 4.549 | 3.000 | 1.137 | 0.750 | 0.569 | 0.375 |
| 1990 | 4.760 | 3.000 | 1.190 | 0.750 | 0.595 | 0.375 |
| 1991 | 4.908 | 3.000 | 1.227 | 0.750 | 0.613 | 0.375 |
| 1992 | 5.014 | 3.000 | 1.253 | 0.750 | 0.627 | 0.375 |
| 1993 | 5.137 | 3.000 | 1.284 | 0.750 | 0.642 | 0.375 |
| 1994 | 5.276 | 3.000 | 1.319 | 0.750 | 0.660 | 0.375 |
| 1995 | 5.419 | 3.000 | 1.355 | 0.750 | 0.677 | 0.375 |
| 1996 | 5.535 | 3.000 | 1.384 | 0.750 | 0.692 | 0.375 |
| 1997 | 5.641 | 3.000 | 1.410 | 0.750 | 0.705 | 0.375 |
| 1998 | 5.724 | 3.000 | 1.431 | 0.750 | 0.715 | 0.375 |
| 1999 | 5.927 | 3.000 | 1.482 | 0.750 | 0.741 | 0.375 |
| 2000 | 6.186 | 3.000 | 1.546 | 0.750 | 0.773 | 0.375 |
| 2001 | 6.376 | 3.569 | 1.594 | 0.892 | 0.797 | 0.446 |
| 2002 | 6.510 | 3.662 | 1.628 | 0.915 | 0.814 | 0.458 |
| 2003 | 6.782 | 3.719 | 1.695 | 0.930 | 0.848 | 0.465 |
| 2004 | 7.054 | 3.848 | 1.764 | 0.962 | 0.882 | 0.481 |
| 2005 | 7.500 | 3.991 | 1.875 | 0.998 | 0.937 | 0.499 |
| 2006 | 7.895 | 4.252 | 1.974 | 1.063 | 0.987 | 0.532 |
| 2007 | 8.333 | 4.534 | 2.083 | 1.133 | 1.042 | 0.567 |
| 2008 | 8.825 | 4.810 | 2.206 | 1.203 | 1.103 | 0.601 |
| 2009 | 8.791 | 5.114 | 2.198 | 1.278 | 1.099 | 0.639 |
| 2010 | 8.977 | 4.995 | 2.244 | 1.249 | 1.122 | 0.624 |
| 2011 | 9.273 | 5.133 | 2.318 | 1.283 | 1.159 | 0.642 |

Inflation based on annual implicit price deflator growth for state and local government consumption expenditures and gross investment

Source: Minnesota Department of Revenue

Table 9: Special Exceptions Prompted by Local Resistance to DNR Land Acquisition

| Year | Site | Changes/Exceptions to Payment Rate |
|------|-----------------------|--|
| 1960 | Goose Management PILT | The development of this special rate--equal to taxes on comparable, privately owned, adjacent land--was reported to be in response to local resistance to the acquisition of land for Lac Qui Parle Wildlife Management Area. |
| 2004 | Camp Ripley | Morrison County had never received PILT for lands at Camp Ripley, which is owned by the Department of Military Affairs, but local interests argued that a portion of the camp is designated as a game refuge, and so it should be eligible. The county receives \$2.567 per acre, 50 percent of the \$5.133 flat rate per acre for acquired land. |
| 2008 | Vermilion State Park | Local resistance to the acquisition of the new Lake Vermilion State Park led to the PILT rate of 1.5 percent of the appraised value of the land--double the usual amount for acquired lands. Local interests argued that the high development potential for lakeshore properties on Lake Vermilion were such that the county should receive additional compensation for the loss of this land from the tax base. |

PILT Rate Conclusions

The state does not need this many rates. The Advisory Group agreed that the numerous exceptions to the rate structure that have been made over time add to the program’s complexity. They make the program more difficult to explain to the public and make the program more difficult to administer between the state and local governments.

It is not clear (there was no group consensus) about whether payments should be made on a flat rate or be land-value based. PILT rates are currently a blend of rates set at a certain amount per acre of land (a flat rate) and rates that are set at a certain percentage of the appraised value of land. The Advisory Group spent considerable time during four meetings discussing the advantages and disadvantages of simplifying the rate structure so that all payments are made on a flat, per acre basis, or for all payments to be made variably, based on the appraised value of the land (Table 10).

Table 10: Discussion of Compensation Structure: Flat-Rate Structure Versus Land-Value Based

| Structure | Cited Advantages | Cited Disadvantages | Other Comments |
|------------------|---|--|--|
| Flat Rate | <ul style="list-style-type: none"> • Would allow more predictable payments • Would be easier to explain than current blended rate structure • Would reduce the administrative burden for counties re: assessments • When the land moves from taxable to non-taxable status, its value is stable because there are no changes in use and no anticipated sale. Re-valuation is unnecessary. | <p>Departs from the original PILT purpose – to make a payment <i>in lieu of</i> property taxes (which are assessed based on land value).</p> | <ul style="list-style-type: none"> • This option would primarily impact areas with existing high land values and/or land values projected to increase, such as the Twin Cities seven-county metro area and counties with significant amounts of waterfront property with high recreational value (e.g., Douglas, Ottertail). • It’s not clear that the administrative burden to counties would be reduced, since assessors have many other reasons to assess the same properties in question. |
| Land-Value Based | <ul style="list-style-type: none"> • Would be easier to explain than the current blended rate structure • Preserves the legislative intent of the program | <ul style="list-style-type: none"> • If the current rate is used (3/4 of 1% of assessed value), program costs would increase dramatically • Payments would be less predictable, with five year spikes • Tying compensation to land value provides large payments to metro and suburban areas with small proportions of public land, contrary to original legislative intent | <ul style="list-style-type: none"> • The high cost of switching to this option could be managed by adjusting the “3/4 of 1%” to a lower rate. • Would this option incentivize DNR <i>not</i> to purchase land in the Twin Cities metro area and <i>to</i> purchase land in greater Minnesota where property values are lower? Some said yes, but DNR staff disagreed, citing many other factors that drive DNR land purchasing decisions. • Per state agency staff, PILT statutes provide them no authority to contest county-assessor land valuations, a right a private property owner might have; if this option is used, the state should develop or maintain some oversight over land valuations. • Methods to assess land vary by county, per a DOR survey of county land assessors done for this project. |

PILT Rate Recommendations

Recommendation 2a:

Simplify the rate structure by

- eliminating special exceptions for goose management croplands
- eliminating the extra hunting lands payment under Minn. Stat. § 97A.061, subd. 1
- moving the remaining Minn. Stat. § 97A.061 provisions into Minn. Stat. ch. 477A⁹⁸

Recommendation 2b:

Clarify, standardize and streamline the acquired land valuation process:

- DOR, in consultation with the Minnesota Association of Assessing Officers (MAAO), should develop guidelines and recommendations for appraising PILT lands to establish more consistent and standardized valuation for PILT-eligible land.
- Change the five-year reassessments to a three- or six-year cycle to coincide with assessments of exempt land for DOR. Assessors are currently required to value exempt lands once every six years. Adopting a three-year cycle would cause every other PILT assessment to fall on the statutorily required exempt assessment; adopting a six-year cycle would coincide with the exempt property assessment for DOR.
- Amend Minn. Stat. ch. 477A to provide DOR with the authority to monitor land values on payment-in-lieu-of-tax properties.
- DNR should solicit recommendations from the DOR and MAAO on how to improve identification and description of PILT land and to improve the user-friendliness of the assessment and payment processes.

Recommendation 2c:

If the legislature adjusts PILT rates in the future, criteria for setting the rates should consider:

- The reason the state acquired the land
- The discretion the that county has to sell the land
- Where the revenue generated from the lands goes (to the county, to the state) – and the net to all tax districts
- The character of the land (wetland, etc.), but noting that the public value of the land may differ from the private (market) value

⁹⁸ Advisory Group members also recommended clarifying the definition of “previously privately owned” in Minn. Stat. §477A.11, subd. 3(1) to conform to the DNR’s historical interpretation. The DNR interprets “previously privately owned” as owned by an individual or non-governmental entity *at the time* the state acquires the land for administration by the DNR.

Issue 3: Payment Adequacy

The Advisory Group addressed the question of whether PILT payments are adequate. In responding to this query, the group considered current budget realities and analyzed the impact of inflation adjustments and community resistance on PILT payments.

Payment Adequacy Findings, Discussion and Conclusions

State budget realities impact the discussion of whether payments are adequate. The Advisory Group initially had some difficulty responding to the question of whether PILT payments are adequate, given the current state general fund budgeting environment.⁹⁹ As a member noted, “It wouldn’t be fruitful to ask for a lot of money from the state, because there isn’t any.” Another member noted that there did not seem to be a mechanism by which PILT payments overall could be increased without harming another part of state government.

Upon further discussion, Advisory Group members articulated reasons why they viewed the payments not to be adequate:

Compensation does not adequately offset foregone property tax revenue in some counties. It was noted that counties with a preponderance of their public land acreage compensated at the “three-fourths of one percent” rate are more adequately compensated than others. Numerous counties have a mix of land types that include acreages compensated at the flat rates of 64.2 cents per acre or \$1.283 per acre. It was difficult to quantitatively evaluate whether property taxes on these same lands would net these counties more revenue if they were taxable, in that some of these lands had not been assessed in years and others had never been on the tax rolls. But qualitatively, Advisory Group members believed that the flat rates were not adequate. A recent analysis by the Office of Legislative Auditor study compared PILT for acquired land to estimated property tax measures, and found that the state’s payment rate for PILT for acquired natural resource land was higher than the overall county-town property tax rate for most counties for taxes payable in 2009. They noted, however, that effective payment rates were lower than overall county-town tax rates in 11 counties.¹⁰⁰

Compensation does not recognize the loss of development potential, particularly for waterfront properties. Participants noted that the purpose of PILT did not originally intend to compensate local governments for what land values *could have been* in an alternative state of development (e.g., with improvements such as cabins or resorts). However, they also noted that arguments about the high development potential of Lake Vermilion lakeshore property had already been a major factor in the legislature’s decision to provide a special (1.5 percent) compensation rate for the Lake Vermilion and Soudan Underground Mine State Parks. The recent legislative decision for Vermilion/Soudan was viewed as precedent-setting by some—that

⁹⁹ In the previous calendar year, the state conducted a legislative session with a large shortfall in the state general fund. This aspect of the state budget environment was well known to all Advisory Group members, so the details of the current budgeting environment were not discussed.

¹⁰⁰ Minnesota Office of Legislative Auditor, Natural Resources Land, March 2010, p. 68.

communities with potential waterfront acquisitions would request the same rate as Vermilion/Soudan.¹⁰¹ Others on the group pointed to some of the unique circumstances in that case (e.g., the land had already been platted for development) and did not think that it made the case for a special PILT rate for all future waterfront acquisitions.

Inflation adjustments. As noted in the Advisory Group’s discussion of PILT rates (Issue 2 and Table 8), the state did not make annual adjustments to flat-rate PILT payments for inflation between 1980 and 2000, and had these adjustments been made, the rates would be an estimated 81 percent higher than they are now. In 2000, the legislature amended PILT statutes to include a retroactive adjustment for inflation, starting in 1994 (rather than 1980). The 2000 amendments were repealed during the 2011 special legislative session as a cost saving measure. However, members noted that the inflation adjustment on flat rates was not a major driver of PILT costs.

Community resistance. Advisory Group members and Technical Work Group members who were familiar with community discussions about land acquisition participated in this conversation. They noted that community resistance to additional land acquisition happens for a variety of reasons. One member noted that resistance tends to increase when there are proposals to cut PILT or when the PILT program is threatened. Another noted that resistance may be due to objections to the management practices on the state land, such as drainage or ATV rules. Other members noted that resistance is more likely to occur in counties with already-high proportions of land under public ownership, and is less likely in regions of the state with fewer opportunities for public recreation (such as the Southwest region). Some members noted that resistance can come from community members who are not well informed about how their counties are compensated by PILT. Given the numerous reasons why communities may resist land acquisition, members thought it was not valid to conclude that resistance is an indicator of inadequate PILT payments.

Payment Adequacy Recommendation

Recommendation 3: Most Advisory Group members were of the opinion that the legislature should consider restoring the annual inflationary adjustments to flat-rate PILT payments. However, MMB’s representative on the Advisory Group noted that inflation adjustments are not made for other types of local government aid. Other Advisory Group members pointed out that without inflation adjustment for flat-rate payments, the PILT laws are internally inconsistent, as acquired lands payments increase at five-year intervals to reflect the increases in land values.

¹⁰¹ There was considerable discussion about the value of waterfront properties, with some Advisory Group members noting that the PILT program cannot achieve its objective of compensating local governments for the loss of tax base without some accommodation of the value of shoreland. They pointed to PAYMENT IN LIEU OF TAXES STUDY: Ad Valorem vs. Current Payments On State-Owned Land, a February 15, 1994 Report to the Minnesota State Legislature, which reveals that shoreland values are far beyond the current compensation scenario. These members believed payment inadequacy for shoreland was reinforced by the recent special compensation rate provided for Lake Vermilion and Soudan Underground Mine State Parks.

Issue 4: Impact of Additional Land Acquisition on PILT Funding

In considering the impact of additional land acquisition on PILT funding, the Advisory Group examined land acquisition trends for the DNR and for the Outdoor Heritage Fund (OHF). The group also analyzed trends in PILT payments.

Impact of Additional Land Findings

Trends in the impact of land acquisition: If the state continues acquire land at the current pace, the DNR estimates that PILT payments would increase annually by somewhere between \$141,188 and \$148,499. A high end (more aspirational) estimate is a \$363,389 annual increase in rates due to land acquisition. Information from the Lessard-Sams Outdoor Heritage Council (L-SOHC) about the Outdoor Heritage Fund (OHF) indicated that the annual OHF PILT liability has risen from \$128,000 (FY09) to \$168,000 (FY10) to \$195,000 (FY11), for a cumulative liability of \$491,000. L-SOHC noted, “If acquisition of land in fee from the Outdoor Heritage Fund continues at similar rates over the life of the fund, after 25 years it is anticipated a total liability created of approximately \$3-5 million in current dollars.”¹⁰²

Trends in the impact of five-year reassessments. In contrast to the relatively small impact of land acquisitions, data show that land value reassessments result in spikes of millions of dollars of increases in PILT payments every five years (Figure 3, Figure 3a).

¹⁰² Lessard-Sams Outdoor Heritage Council, “Outdoor Heritage Fund Appropriations ‘At a Glance,’” undated.

Figure 3: PILT Payments by Fiscal Year

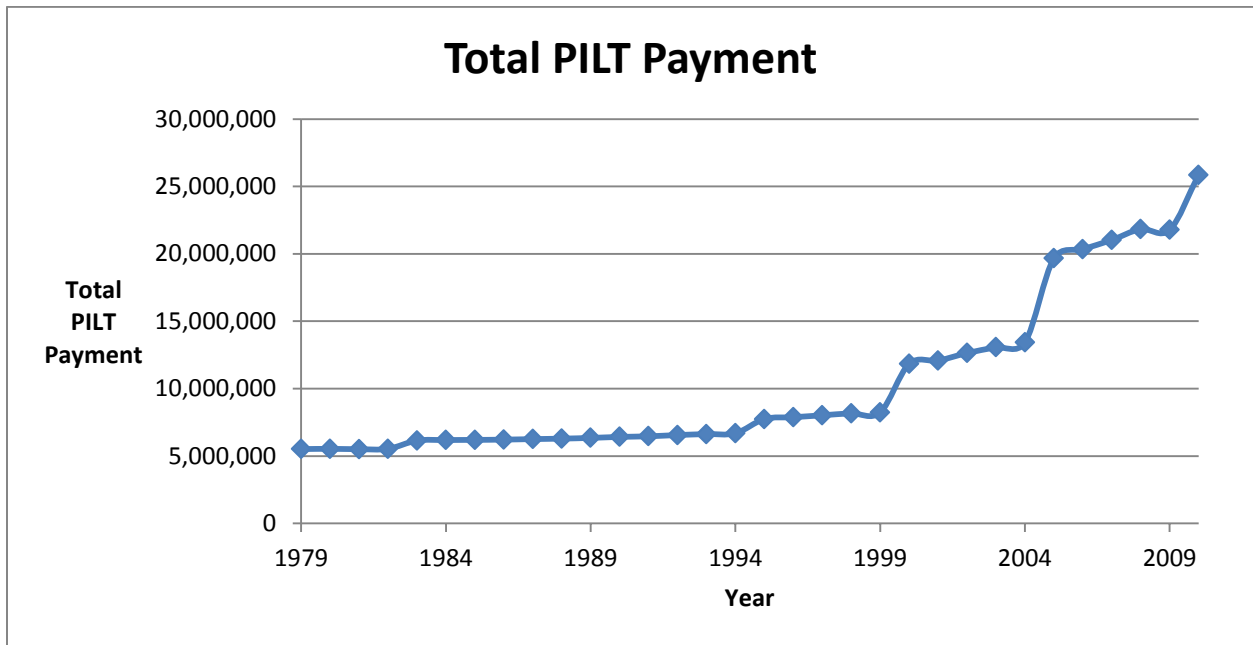
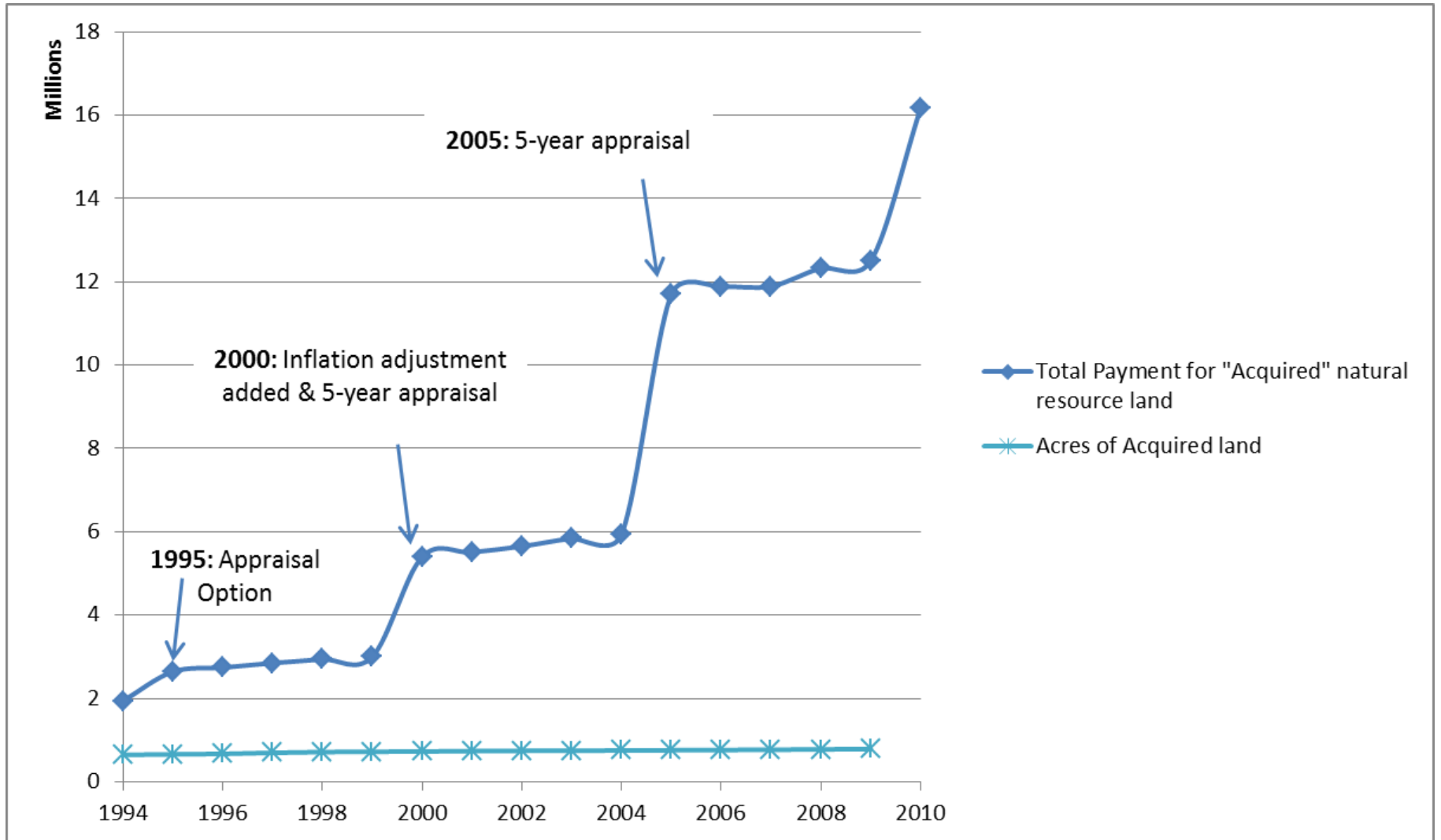


Figure 3a: Increase in Acquired Acres (except con-con) Compared to Increase in Payments



Impact of Additional Land Discussion and Conclusions

It is clear from the program data that increases in land values, more so than additional land acquisition, have historically been the primary driver of increases in PILT costs. Members noted:

- It is not certain that increases in land values will continue to cause large increases in PILT costs. Land values in some jurisdictions are declining and are steady in others. Waterfront and agricultural land values continue to increase.
- Although the data clearly show the stronger influence of land values vs. land acquisition on program funding, members noted that public perception is the opposite. Members discussed the importance of public education regarding PILT and what drives its costs.

Impact of Additional Land Recommendation

Recommendation 4: Inform decision makers. The legislature and DNR should enhance existing efforts to inform the public about PILT and the drivers of PILT cost increases.

Issue 5: Alternatives to the Current Payment System

The Advisory Group discussed the topic of PILT alternatives at two meetings. These meetings included a presentation about a PILT alternative developed by the Minnesota Association of Townships (MAT) and the Association of Minnesota Counties (AMC), and a DNR presentation about how PILT programs operate in other states.

PILT Alternative Findings

Trust Fund Alternative. At the request of a member of the legislature, representatives of MAT and AMC developed a PILT alternative for new land acquired through the Outdoor Heritage Fund (OHF) and the Environment and Natural Resources Trust Fund (ENRTF). Although this alternative was developed in the context of land acquisitions funded through the OHF and ENRTF, it could be expanded to include other types of acquisitions. The trust fund alternative uses the following approach:

- A dedicated trust fund would be set up through the State Board of Investment (SBI).
- The investment earnings from the trust would be dedicated to local governments to replace their lost property tax revenues based upon the land's tax value when it was removed from the tax rolls.
- The trust would be funded through a set-aside at the time the land is acquired. The amount proposed was 30 times the property tax payable on the property in the current year.¹⁰³ The set-aside money would be deposited with the SBI.

¹⁰³ This was a preliminary estimate. Representatives of MAT and AMC noted that actuarial studies and further analysis would be needed to determine the appropriate amount.

- The earnings from the trust would be paid to local governments and special taxing authorities in a manner directly proportional to the amount of revenue the entity was receiving from the property at the time it was removed from the tax rolls.
- Additional earnings would be used to grow the principal of the trust fund, in order to protect against market fluctuations and to allow payments to keep pace with increased tax values of the land, in other words pre-paying for land.

Table 11: Advantages and Disadvantages of the Trust Fund Alternative

| Advantages | Disadvantages |
|--|--|
| <ul style="list-style-type: none"> • Would reduce burden on the state general fund • Could also apply to land purchases made by tax-exempt non-profits, enhancing revenue for local government | <ul style="list-style-type: none"> • Many details need to be worked out (e.g., assumed rates of return and amount to initially place in the trust) • No cost estimates have been run—this approach could be very costly • There are questions about the constitutionality of using some funding sources, such as the OHF, for set-asides – this would require legal analysis (outside the scope of the Advisory Group) • Some Advisory Group members expressed concern that if used for new acquisitions only, the new program could threaten the ongoing general fund appropriations for PILT for existing state land • The trust fund principal could potentially be tapped for other uses during hard budget times • The valuation of the land is one time only – this does not take into account the changing of land values over time |

PILT in Other States: The DNR’s research on PILT-type programs in other states showed that states use a variety of methods, ranging from making payments equivalent to property taxes to providing no reimbursement at all. Some states factor in the *date* the land was acquired, others focus on the *use* of the land after it was acquired, while still others factor in the percentage of the jurisdiction’s land that is owned by the state. Some examples are shown in Table 12. Members noted that Minnesota owns more natural resources land, both in absolute acreage and as a percent of the land base, than any of these other states. Neighboring states of North Dakota and Iowa, for example, have 812,000 and 266,400 acres of natural resources land for which PILT is paid, compared to Minnesota’s 8.4 million. On the list of states reviewed, Wisconsin (3,645,900 acres or 10.5%) and Michigan (4,488,800 acres or 12.3%) were more comparable, based on percentage of land that the state owns and land types, to Minnesota than the others.

Table 12: PILT Programs in Other States

| State(s) | Finding(s) |
|---|---|
| North Dakota, Iowa, Nebraska | These states make payments that are equivalent to private property taxation. The ND program applies only to land for hunting and fishing. |
| Wisconsin | WI has three types of PILT payments: <ul style="list-style-type: none"> • For land acquired before 1969, counties are paid 88 cents per acre. • For land acquired between 1969-1992, counties are reimbursed for the full property tax amount the first year, with a 10% reduction each year, until the amount is down to 10 % of the original payment. The floor on payment rates is 50 cents per acre. • For land acquired since 1992, the Wisconsin DNR pays a “fair share” of aid on all lands, which is generally equivalent to property tax payments. |
| Michigan | Similar to Wisconsin, compensation depends on the year the land was acquired. <ul style="list-style-type: none"> • For land acquired before 1933, local governments are paid \$2 per acre. • For land acquired since 1933, local governments are paid the value of the land. (as established by the State Tax Commission) times local millage rate. |
| Ohio | <ul style="list-style-type: none"> • Wildlife areas receive one percent of the total assessed value. • Forestry lands pay 65 percent of the funds received for timber sales. • No payments are made for Parks & Recreation land or natural areas. |
| Connecticut and New Jersey | <ul style="list-style-type: none"> • Both states base their payments on percentage of land owned by the state. • In CT, if more than 50 percent of a town’s land is owned by the state, the payment is equal to the amount of taxes that would be paid if the property were not tax-exempt. If less than 50 percent of land is state-owned, the payment is equal to 45 percent of the amount of taxes that would be paid. • In NJ, payment depends on percentage of the county’s land owned by the state, according to the following scale: 20 percent = \$2 per acre; 21-40 percent = \$5 per acre; 41-60 percent = \$10 per acre; 61 or more percent = \$20 per acre |
| Utah and Pennsylvania | These states have flat PILT rates. Utah pays 52 cents per acre for school or institutional trust lands, and Pennsylvania pays \$1.20 per acre. |
| California, Colorado and Mississippi | These states only make payments for counties if state land is leased and the land is used to make money. A portion of the income of the land is paid to the county in a similar fashion to property taxes. |
| Other states | Nine states make no payment (Georgia, Hawaii, Indiana, Louisiana, Missouri, New Hampshire, New Mexico, Oregon, West Virginia) |

PILT Alternative Discussion and Conclusions

The Advisory Group discussed the need to move the trust fund idea forward, and to gather more information regarding the implications of other states’ experience on Minnesota alternatives. Specifically, the group concluded that:

It is worthwhile to forward the trust fund idea for the legislature’s consideration. The group identified some advantages and disadvantages associated with the approach, as shown in Table 11.

DNR should run costing models that apply other state approaches to Minnesota’s data: As noted in the “rate of payments” section of the report, members had differing perspectives on how the rate structure for PILT should work in the future. They requested that DNR staff run some costing models that apply approaches used in other states to Minnesota’s data, in hopes that a winning approach would emerge. DNR staff worked further with the Technical Advisory Group to define which costing models to run. The models and a link to the webpage with their results are shown in Appendix E.

The Advisory Group agreed that none of these models was a clear winner. Nine models redistributed PILT payments so that one or more counties would lose while others gained. This was not considered politically feasible. In fact, the discussions on distribution of payments and costing models put counties and townships in an untenable position of redistributing amongst themselves. Likewise, it was difficult for state agencies to agree to propose an increase in payments in order to obtain a consensus agreement. The Advisory Group has developed payment principles that will nevertheless be helpful for future development of a PILT payment and distribution structure.

The Advisory Group was charged to consider whether any changes were need to the “formula for distribution of the payments to local units of government.” This involves consideration of PILT’s payment to school districts and townships. To prepare for this discussion, the Advisory Group reviewed information and heard presentations related to education financing and the PILT payments to townships. The group also discussed a proposal for PILT distribution prepared by the members of the Technical Work Group representing local government. The Advisory Group also asked them to prepare a proposal in advance, working within their constituencies, given that the distribution of payments mostly affects local government interests.

PILT Alternative Recommendation

Recommendation 5: The legislature should further develop alternatives to pay for future PILT obligations, including an examination of the trust fund approach for new land acquisitions (per previous page).

Issue 6: Payments Distribution to Local Units of Government

PILT Payment Distribution Findings

Distribution to Schools. Prior to 2002, the Minnesota school aid formula split the general operation expenses for schools between state funding and local property tax funding. Since 2002, all funding has been coming from the state. Therefore, the issue of tax base loss due to the purchase of natural resources land is less of an issue for school districts than it is for other units of government. Beyond these general operation expenses, most school districts provide optional (voter-approved) property tax levy aid.

The Advisory Group reviewed a detailed spreadsheet showing the operation of an equalization formula within the school aid formula. The intention of this formula is to equalize school levy

revenues between more wealthy and less wealthy school districts. The calculations showed that, if payments to school districts were to become a broader policy for PILT distributions, school districts would benefit from PILT distributions on one end, but could lose funds by operation of the equalization formula. Meanwhile, with finite payments to each county distributed to local governments, the counties with PILT payments would lose the entire amount. In addition, there has been no change to the equalization formula. It is uncertain if increasing PILT payments would increase payments to school districts.

Distribution to townships: The Advisory Group considered a 2010 conclusion of the Office of the Legislative Auditor that township distributions under PILT seemed low. The OLA found that counties retain the vast majority of payments under PILT law and relatively little of the payment is made to townships (see report excerpt in Table 13).

Table 13: Excerpt from the OLA Report Regarding PILT Distribution to Counties

| Topic | Excerpt |
|---------------------------------------|---|
| Counties payments to townships | Counties retain the vast majority of the payments made under the state’s main PILT law. This statute covers acquired non-hunting and consolidated conservation lands, county-administered tax-forfeited land, and DNR administered other natural resource land. We found that <u>the state’s main PILT law requires that counties forward relatively little of the payment made under the law to townships.</u> |
| Policy and process | Counties are required to distribute up to 10 percent of the PILT payment for acquired non-hunting and consolidated conservation land to the townships containing the land. The percentage can be significantly less than 10 percent because when the option of PILT based on appraised value was added for these lands, the proportion to be shared with townships remained at a per-acre rate. Counties distribute to townships up to 10 percent of the PILT payment for county-administered tax-forfeited land, and 20 percent of the payment for DNR administered other natural resource land. |
| 2009 data | However, data for taxes payable in 2009 indicate that overall town levies represented more than 10 percent of the county-town tax rate in most counties, and exceeded 20 percent in many counties. Based on our estimates, the overall town tax rate exceeded 10 percent of the county-town tax rate in 83 counties, and exceeded 20 percent in about 40 counties. In the median county, the overall town tax rate represented 19 to 20 percent of the overall county-town tax rate. Although there is not a clear indication of what proportion should be shared with townships, less than 10 percent for acquired land seems low. |
| Source | Minnesota Office of Legislative Auditor. Natural Resource Land, March 2010, p. 74. |

The low distribution amount to townships is, in part, due to 1995 amendments to Minn. Stat. ch. 477A. These amendments provided counties with the option of receiving land-value based PILT payments for their acquired lands and, thereby, greatly increased payments to counties electing this option. However, the distribution formula to townships was not changed to reflect increases in payments to counties electing the three-fourths of one percent option. Instead, the distribution to the townships remained fixed at up to 10 percent of the flat-rate payment for acquired lands.¹⁰⁴

Payment Distribution to Local Units of Government Discussion and Conclusions

Distribution to School Districts: The question of whether to send an increasing share of PILT payments to school districts remained unresolved. However, the group agreed that the recommendations of the Minnesota Department of Education’s Education Finance Working Group should be monitored for impacts on PILT payments and distributions.

Distribution to Townships: Advisory Group and Technical Work Group members representing counties and townships attempted to develop a proposal for a change in the township distribution, but were not able to reach consensus unless counties would be held harmless from the change. Some county representatives in the Advisory Group proposed using funds from the state’s game and fish fund for PILT payments, but there was not broad agreement on this approach.

¹⁰⁴ See Chapter 2 for further information about the 1995 amendments to Minn. Stat. ch. 477A.

(See also DNR Recommendations)

Payment Distribution to Local Units of Government Recommendation

Recommendation 6a: The recommendations of the Education Finance Working Group should be monitored for implications for PILT payments and payment distributions.

Issue 7: DNR Recommendations

Although the Advisory Group was not able to reach consensus on the issue of PILT distribution to townships, the DNR believes townships do not receive the distribution amount as originally intended when the main PILT law was enacted.

Conclusions

The DNR concurs with the OLA conclusion that distributions to townships may be too low for non-hunting acquired lands. As noted, the 1995 amendments to Minn. Stat. ch. 477A that authorized payments based on three-fourths of one percent of appraised value as an alternative to a flat-rate payment did not include a corresponding adjustment to the distribution to the townships. Accordingly, townships receive a distribution that, at most, equals 10 percent of the acquired lands flat-rate payment of \$5.133/acre.¹⁰⁵ Even if the payment to the county is based on three-fourths of one percent of appraised value, the township only receives, at most, 51.3 cents per acre of acquired lands within its boundaries.

Recommendation 7: The legislature should consider revising the distribution formula to provide townships with at least 10 percent of the actual payment to the county for acquired lands within the townships' boundaries to be consistent with historic distribution percentages.

¹⁰⁵ The distribution may actually be less if there are insufficient funds to pay the full amounts after the first two steps in the payment formula have been completed. *See* Minn. Stat. § 477A.14, subd. 1.

Appendices: PILT Report

Appendix A: Information and Questions Considered by the Advisory Group

Appendix B: PILT Report Components

Appendix C: DOR Payment Reports

Appendix D: The History of PILT in Minnesota (expanded version of ch. 2)

Appendix E: Costing Models and Results

Appendix A: Information and Questions Considered by the Advisory Group

Issue I: PILT Purpose

The Advisory Group discussed this topic at their February 3 and February 24 meetings.

To prepare for this discussion, the group reviewed:

- A presentation on the state's history with PILT since 1933, and statutory amendments over time
- Statistics and trends in payments over time
- Excerpts from newspaper articles written in the late 1970s, when the main PILT statutes (Minnesota Statutes section 477A.11-.14) were considered and passed¹⁰⁶

The group considered two focus questions:

- What has been the purpose of PILT? (Legally, and as understood)
 - What did you hear during the presentation?
 - What do you remember? (Some of you were there when PILT was adopted)
 - What have you been told (Even if you weren't there, what is the folklore? Why do people say we have PILT?)
- What should be the purpose of PILT, as we look into the future?

Issue 2: PILT Rates

The Advisory Group discussed this topic at their February 24 and March 23 meetings.

To prepare for this discussion, the group reviewed:

- Maps of PILT-eligible land by type
- FY 2010 PILT payments made by county – total acres, total payment and the average per acre payment
- An inflation analysis of PILT from FY 1979 to FY 2010 provided by the Department of Revenue
- A presentation on federal PILT, provided by the Intergovernmental Affairs Director for St. Louis County
- A presentation on state-owned lands and the distribution of revenue from the lands managed by the DNR, provided by the Assistant Director of DNR's Division of Lands and Minerals

¹⁰⁶ No audio recordings of legislative history are available for the late 1970s.

The group considered focus questions for the discussion that were similar to the questions for the purpose of PILT:

- How have PILT rates been developed in the past? – Historically, where do these rates come from?
- What should PILT rates be in the future?

Issues 3 and 4: Payment Adequacy and the impact of land acquisition

The Advisory Group discussed this topic at its March 23 and April 27 meetings. The topic also re-surfaced during the group’s July 26 meeting.

To prepare for this discussion, the group reviewed information that had been disseminated at earlier meetings relating to:

- Trends in PILT payments
- FY 2010 PILT payments made by county – total acres, total payment and the average per acre payment
- An inflation analysis of PILT from FY 1979 to FY 2010 provided by the Department of Revenue

In addition, the group received the following new information:

- An Outdoor Heritage Fund Appropriations “At a Glance” handout detailing land acquisitions made with OHF funds and projected PILT payments as a result of these acquisitions
- A handout and presentation on DNR land acquisition and projected PILT payments

The group considered the following focus questions:

- Describe what you consider “adequate.” Or, what are the signs or signals that payments are not adequate?
- What do you make of the recent decisions in approximately 18 jurisdictions to place a moratorium on public land acquisition? Is it a sign that PILT payments are not adequate? Or is it a sign that citizens in these counties aren’t fully aware of PILT payments? What are you hearing in these jurisdictions?
- What has the research to and data given to the group thus far shown about the relationship between increasing land acquisition and increasing PILT payments?

Issue 5: PILT Alternatives

To prepare for this discussion, the group reviewed the following:

- A presentation and summary of an alternative to PILT, provided by the legislative affairs director for the Minnesota Association of Townships and the Environment & Natural Resources Policy Analyst for the Minnesota Association of Counties
- A presentation and data about PILT programs in other states, provided by a DNR planner

The Advisory Group discussed this topic at its April 27 and July 26 meetings.

Issue 6: Distribution of PILT Payments to Local Units of Government

The Advisory Group discussed this topic at its April 27 and July 26 meetings.

To prepare for this discussion the group reviewed the following:

- “Financing Education in Minnesota,” a publication of the Minnesota House of Representatives Fiscal Department, September 2011
- A presentation on the school funding/equalization formula, provided by the Executive Director of the Minnesota Inter-County Association
- A presentation about the PILT distribution process to local government, provided by the DNR Lands and Minerals division.
- An Office of the Legislative Auditor report excerpt that discussed the distribution of PILT payments to townships.

Given that the distribution of payments mostly affects local government interests, members of the Technical Work Group representing local government were asked to prepare a proposal in advance, working within their constituencies. State agency representatives from DNR, MMB and DOR noted that the issue impacted local units of government but not the state. Furthermore, since distribution of PILT payments to school districts had already been raised (at a prior meeting), a representative of the Minnesota School Board Association was invited to participate in the discussion.

Appendix B: PILT Report's Components

Components of the PILT Report prepared annually by the DNR are:

- 1. Acres and Values.** This report section shows the acres by county and land class or subclass, as well as the acquired lands values by county and subclass. Statewide totals by land class and subclass are also included in this report section.
- 2. Payments.** This report section shows the payments by county and land class or subclass as well as statewide totals.
- 3. Public Hunting Grounds Summary.** This report section shows the additional acquired hunting lands payment that is made under Minn. Stat. § 97A.061, after a reduction for the payment made for these same lands under Minn. Stat. § 477A.12. The report contains county and statewide totals for acquired hunting acres, revenue from these lands and land value. It also shows the results of calculations for 50 cents per acre, 35% of revenue, and $\frac{3}{4}$ of one percent of appraised value, and the highest of these three amounts. Finally, there is a column showing the payment for these lands made under Minn. Stat. § 477A.12 and the amount, if any, owed under Minn. Stat. § 97A.061 after reduction for the Minn. Stat. § 477A.12 payment.
- 4. County Reports.** The land records system generates a report for each county with specific information about the acquired natural resources lands and DNR other natural resources lands for which payments are made. For acquired lands, the report shows the township, section, range, government lot or forty is included. For DNR-administered other natural resources lands, the report shows township and range. There is also information about the land's use, including whether the land is a component of the outdoor recreation system. Because the counties maintain detailed information about the tax-forfeited lands they administer, the report only shows the total certified acres of county-administered tax-forfeited land.
- 5. Lake Vermilion/Soudan Underground Mine State Parks Report.** In 2012, the DNR's land records system was programmed to generate a report for St. Louis County that shows the acres, location, and payments made under Minn. Stat. § 477A.17 for Lake Vermilion and Soudan Underground Mine State Parks.

Appendix C: DOR Payment Reports

The documents that DOR makes available to counties and the public through its website are:

- **Natural Resources PILT Amounts by County.** This document contains a detailed information sheet for each county about its payment in lieu of taxes under Minn. Stat. ch. 477A.
- **Determination and County Apportionment of Payment Amounts.** This document explains how the payment amounts were calculated under Minnesota law.
- **Apportionment Example.** This document is a worksheet with instructions to the counties about how to apportion the payments among the county and townships.

PDFs of these documents are available at the following DOR web page:

http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/pilt.aspx

Appendix D: The History of PILT in Minnesota (expanded version of ch. 2)

Chapter Introduction and Overview

The Advisory Group reviewed the development of PILT law and related studies in Minnesota in order to consider changes to PILT within the context of why and how current law exists, and what changes have been made (or attempted) in the past. As noted earlier, Minn. Stat. §§ 97A.061, 477A.11-.14 and 477A.17 govern PILT in Minnesota. The main PILT law, Minn. Stat. § 477A.11-.14, was enacted in 1979. The PILT provisions in the game and fish laws, Minn. Stat. § 97A.061, pre-date the main PILT law by several decades.

This chapter provides historical highlights of the origins of the PILT laws and major amendments. The chapter is organized into three sections: PILT from 1933-1978; enactment of the main PILT law in 1979; and PILT from 1979-2011.

PILT 1933-1978

1933 Origin of PILT. The origin of the PILT provisions in Minn. Stat. § 97A.061 of the game and fish law can be traced back to a 1933 law¹⁰⁷ that addressed the use of income from designated public hunting grounds and game refuges. This law established the “Public Hunting Grounds and Game Refuges Revolving Fund,” which was comprised of income from designated public hunting grounds and game refuges, except trust lands and lands acquired under the system of rural credits, and was to be used to defray management expenses for these lands.¹⁰⁸ The law required the state to make payments from the fund to counties where the public hunting grounds and game refuges were located.¹⁰⁹ Payments consisted of 35 percent of the revenues from those lands. The county treasurer was required to distribute the payments among the various funds of the county, towns and school districts where the lands were located as if the payments were taxes on the land.¹¹⁰

1945 Laws: Game and Fish Law (Minn. Stat. § 97.49). In 1945, laws relating to the preservation, protection and propagation of wild animals were revised, consolidated and codified as Minn. Stat. ch. 97, the game and fish law. A “funds” section,¹¹¹ codified as Minn. Stat. § 97.49, was included. This section credited license fees and other receipts to the game and fish fund and appropriated moneys from the fund to the commissioner of conservation for the activities of the game and fish division of the department of conservation.¹¹² Subdivision 3 of

¹⁰⁷ 1933 Minn. Laws, ch. 392, § 22 (5630).

¹⁰⁸ 1933 Minn. Laws, ch. 392, § 22(j) (5630).

¹⁰⁹ 1933 Minn. Laws, ch. 392, § 22(k) (5630).

¹¹⁰ *Id.*

¹¹¹ 1945 Minn. Laws, ch. 248, § 1 (codified as Minn. Stat. § 97.49).

¹¹² The Department of Conservation was the precursor of the Minnesota Department of Natural Resources. *See* 1969 Minn. Laws, ch. 1129, art. 3, § 1.

Minn. Stat. § 97.49 incorporated, as modified, language from the 1933 law requiring the state to pay the counties a portion of revenues from public hunting grounds and game refuges.

Subdivision 3 provided in part:

[A] sum equal to 35 per cent of the gross receipts from all special use permits of those lands actually used for public hunting grounds and game refuges shall be distributed annually to the county in which the lands producing such income lie, to be distributed by the county treasurer among the various funds of the county, the respective towns and school districts wherein such grounds and refuges lie, on the same basis as if the payments were received as taxes on such lands, payable in the current year, but this provision shall not apply to state trust lands.¹¹³

1953 Origin of Per Acre Payments. In 1953, Minn. Stat. § 97.49 was amended¹¹⁴ to add a flat 15 cents per acre payment to the counties from the game and fish fund as an alternative to a payment equal to 35 percent of the gross receipts from special use permits. The flat rate only applied to “purchased land actually used for public hunting grounds and game refuges.”¹¹⁵ The county board was required to elect either the flat rate payment or the 35 percent of gross receipts and so notify the commissioner of conservation. Language stating that Minn. Stat. § 97.49, subdivision 3 did not apply to tax-forfeited lands was also added.

1955 Origin of Winona County Special Distribution. In 1955, a new subdivision pertaining to the distribution of Winona County’s payments was added to Minn. Stat. § 97.49.¹¹⁶ It provided for distribution of payments to the towns and school districts only, excluding the county as a recipient. This law is reported to have been enacted in relation to the state’s acquisition of land for Whitewater State Park.

1961 Per Acre Payment Increase and Origin of Goose Management Cropland Payments. Two laws that significantly amended Minn. Stat. § 97.49 were passed in 1961.¹¹⁷ One increased the flat payment rate from 15 to 25 cents per acre and eliminated the requirement that county boards elect between the flat rate payment or payment based on 35 percent of gross receipts, providing instead that the county would receive the greater of the two amounts.¹¹⁸ The law added “leases of lands” to the provision authorizing payments of 35% of gross receipts from special use permits. The law also clarified that gross receipts from special use permits and leases had to be from land “acquired for” public hunting grounds or game refuges.

The other 1961 law added a new subdivision to Minn. Stat. § 97.49 that provided for special payments to counties having more than 1,000 acres of crop land acquired by the state for wild

¹¹³ 1945 Minn. Laws, ch. 248, § 1.

¹¹⁴ 1953 Minn. Laws, ch. 741, § 38.

¹¹⁵ *Id.*

¹¹⁶ 1955 Minn. Laws, ch. 393, § 1.

¹¹⁷ 1961 Minn. Laws, ch. 470, § 1; 1961 Minn. Laws, ch. 587, § 1.

¹¹⁸ 1961 Minn. Laws, ch. 587, § 1.

goose management purposes.¹¹⁹ The payment amounts were to be equivalent to what taxes on the land would have been had they been assessed on the same basis as comparable private adjacent land. The payments were to be made from the game and fish fund and were to be a credit against any amounts payable under Minn. Stat. § 97.49, subdivision 3 (i.e., payments for hunting grounds or game refuges made at the flat rate or based on 35% of gross receipts).

1971 Per Acre Payment Increase. The next major amendment to Minn. Stat. § 97.49 was in 1971 when the 25 cent per acre flat rate payment option in subdivision 3 was increased to 50 cents per acre.¹²⁰

1974 Amendment to Distribution. In 1974, the distribution to the county in Minn. Stat. § 97.49, subdivision 3 was amended. The provision authorizing distribution among the “various funds of” the county was repealed and replaced with a new requirement that the county’s share be deposited in the county general revenue fund.¹²¹

1979 Minnesota Public Lands Impact Study, Phase I, Natural Resources Lands. The 1975 Laws of Minnesota required the Legislative Commission on Minnesota Resources (LCMR) to report “its findings and recommendations regarding payments in lieu of taxes on State and Federally owned lands.”¹²² Phase I of this study analyzed information and reported findings regarding public land held for natural resource management. Among the major components of the study were the identification of existing state and federal aids; a pilot study in two areas that included an analysis of service demands, property tax revenues and other impacts of natural resources lands and development of a framework for evaluating alternative approaches to PILT for Minnesota’s tax-exempt lands.

The study concluded that natural resources lands draw the public for recreational activities which brings with them “increased governmental service demands. However, these increased activities also enhance local economies (hence tax base) and tend to increase private property values.”¹²³ The study also determined, that “local communities benefit from State and federal natural resource lands through: (a) increased recreation opportunities; (b) State and federal land management, and (c) preserved amenities.”¹²⁴

The study identified several principles that should be applied to any alternative to the current PILT system, noting that a payment system ideally should be: “(a) visibly tied to tax-exempt land ownership, (b) relatively simple to administer, (c) require a minimum of data, (d) related to local fiscal needs, (e) related to the service demands created by the land, (f) adaptable to changing

¹¹⁹ 1961 Minn. Laws, ch. 470, § 1.

¹²⁰ 1971 Minn. Laws, ch. 562, § 1.

¹²¹ 1974 Minn. Laws, ch. 223, § 1.

¹²² Phase I: Natural Resource Lands, Minnesota Public Lands Impact Study, Legislative Commission on Minnesota Resources, in cooperation with the Tax Study Commission and Barton-Aschman Associates, Inc., March, 1977, p. 1.

¹²³ *Id.*, p. 8.

¹²⁴ *Id.*, p. 10-11.

conditions, (g) as equitable as possible, (h) predictable to local governments, (i) a reasonable cost, and (j) responsive to the special impacts of new acquisitions.”¹²⁵

1978 PILT Legislation. In 1978, bills proposing a payment in lieu of taxes system were introduced in the legislature. According to a contemporaneous newspaper article, the purpose of the bills was “to provide counties and other local government units a means of reimbursement by the state for large tracts of public lands.”¹²⁶ Although a bill passed in the state senate, its house counterpart and other versions of the payment in lieu of taxes bill did not pass in the house that year.¹²⁷

Enactment of the Main PILT Law in 1979

The main PILT law, Minn. Stat. §§ 477A.11-.14, was enacted in 1979.¹²⁸ This law provided for payments for all lands owned by the state and administered by the commissioner of natural resources and for tax-forfeited land, other than platted lots within a city, owned by the state and administered by either the commissioner or the county in which the land was located.

Land Classes. There were two classes of land in the 1979 law:

“Acquired natural resources land,” which was defined as “land presently administered by the commissioner in which the state acquired by purchase, condemnation, or gift, a fee title interest in lands which were previously privately owned;” and

“Other natural resources land,” which included all other lands administered by the commissioner and tax-forfeited lands administered either by the commissioner or the counties.¹²⁹

Payment Rates. There were three payment rates:

- The acquired natural resources lands payment was \$3 times the number of acres of acquired natural resources land within the county.
- The county-administered other natural resources lands payment was 75¢ times the number of acres of county-administered natural resources land within the county.
- The commissioner-administered other natural resources lands payment was 37.5¢ times the number of acres of commissioner-administered natural resources land within the county.¹³⁰

¹²⁵ *Id.*, p. 12.

¹²⁶ Hearing scheduled on ‘in lieu of taxes’ legislation, Bemidji Pioneer, May 4, 1978.

¹²⁷ *Id.*

¹²⁸ 1979 Minn. Laws, ch. 303, art. 8, §§ 1-4.

¹²⁹ 1979 Minn. Laws, ch. 303, art. 8, § 1 (codified as Minn. Stat. § 477A.11 (Supp. 1979)).

¹³⁰ 1979 Minn. Laws ch. 303, art. 8, § 2 (codified as Minn. Stat. § 477A.12 (Supp. 1979)).

Source of Appropriation; Lands Eligible. Payments were made from an appropriation to the commissioner of natural resources from the general fund. Payments were for the lands located in each county as of July 1 of each year.¹³¹

Certifications. The commissioner of natural resources was to determine and certify the number of acres of lands administered by the commissioner as of July 1. Each county auditor certified to the commissioner the number of acres of county-administered other natural resources land as of July 1.¹³²

Ineligible Lands. Goose management croplands, for which payments were made under Minn. Stat. § 97.49, subdivision 7, and lands acquired for St. Croix Wild River State Park, for which payments were made under 1973 Minn. Laws, ch. 567, were ineligible for payments under Minn. Stat. § 477A.12, subdivision 2.¹³³

Time of Payments; Deductions. Payments were made in January of the “year next following certification.”¹³⁴ Deductions were made for any payments made to a county or township during the preceding year under:

- Minn. Stat. § 84A.51 (consolidated conservation areas fund)
- Minn. Stat. § 89.036 (state forest fund; 50-50 lands)
- Minn. Stat. § 97.49, subdivision 3 (acquired hunting lands PILT provision in game and fish law)
- Minn. Stat. § 272.68, subdivision 3 (rentals paid to county for leased state-owned lands)

Distribution and Use of Funds. The distribution and use provisions of the 1979 PILT law were very similar to the current distribution and use provisions of Minn. Stat. § 477A.14. There was a four-step process for PILT distribution, as shown in Table A:¹³⁵

Table A: Steps in the Four-Step Distribution Process

| Step | Description |
|------|---|
| 1 | Forty percent of the total payment to a county was to be deposited in the county general revenue fund and used to provide property tax levy reduction. The remaining payments were distributed in the priority set forth in Steps 2- 4. |
| 2 | For each acre of county-administered other natural resources land (tax-forfeited land), 37.5 cents was deposited in a county resource development fund. This fund was used for resource development, forest management, game and fish habitat improvement, recreational development and maintenance of county-administered tax-forfeited lands. If a county received less than \$5,000 annually for its resource development fund, the county was authorized to deposit that amount in the county general revenue fund instead. |

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ 1979 Minn. Laws, ch. 303, art. 8, § 3 (codified as Minn. Stat. § 477A.13 (Supp. 1979)).

¹³⁵ 1979 Minn. Laws, ch. 303, art. 8, § 4 (codified as Minn. Stat. § 477A.14 (Supp. 1979)).

| Step | Description |
|------|---|
| 3 | <p>This step provided for PILT distribution to the townships. Organized townships received flat per acre payments for each type of natural resources land within their boundaries:</p> <ul style="list-style-type: none"> • 30¢ per acre of acquired natural resources land • 7.5¢ per acre of other natural resources land <p>Payments for lands not within an organized township were deposited in the county general revenue fund.</p> <p>Counties and organized townships were to use the payments made under Step 3 to provide property tax levy reduction. If the payment in lieu of taxes did not fully fund the distribution under Step 3 (because there were insufficient funds left after the Step 1 and 2 distributions), the payments to townships, and to the county general revenue fund for unorganized townships, under Step 3 were to be prorated.</p> |
| 4 | <p>If there were any remaining funds after the distribution under Steps 1-3, they were to be deposited in the county general revenue fund. If this distribution exceeded \$35,000, the excess was to be used for property tax levy reduction.</p> |

PILT 1979-2011

1979 Addition of Land Value-Based Payment Option to Minn. Stat. § 97.49. The Minnesota Public Lands Impact Study of 1977 included an overview of existing state and federal government aids to counties for natural resources lands, including certain payments made by the U.S. Fish and Wildlife Service and U.S. Forest Service. The report referenced payments made for U.S. Fish and Wildlife Service acquired lands. The federal payments for those lands were, in part, based on a formula providing for payment of the greater of three-fourths of one percent of the appraised value of the lands or 25 percent of revenues from the lands.¹³⁶ The report also referenced payments by the U.S. Forest Service for lands acquired for the BWCA. Payments for these lands were based, in part, on three-fourths of one percent of the appraised value.¹³⁷

A 1979 amendment to Minn. Stat. § 97.49, subdivision 3 incorporated the federal payment model into Minnesota’s acquired hunting lands payment. It added a third payment alternative, “three-quarters of one percent of the appraised value of purchased land actually used for public hunting grounds and game refuges,” to the 35% of gross receipts or 50 cents per acre flat rate.¹³⁸

¹³⁶ Minnesota Public Lands Impact Study, Phase I, p. 47.

¹³⁷ *Id.*

¹³⁸ 1979 Minn. Laws, ch. 301, § 8.

The 1979 amendment also described how the appraised value was to be determined:

[T]he appraised value of the lands acquired shall be deemed to be the purchase or acquisition price thereof during the first five years following acquisition. After the expiration of five years from the date of acquisition or, in the case of lands acquired prior to July 1, 1974, within 90 days after the effective date of this act, and thereafter at five year intervals, a current appraisal of the land shall be made by the appropriate county assessor, and shall govern payments.¹³⁹

1981 Change to Timing of Payment. In 1981, an amendment to Minn. Stat. § 477A.13 changed the timing of the payment from January to July of the “year next following certification.”¹⁴⁰

1984 Payment Reductions. A law passed in 1984 reducing PILT payments made under Minn. Stat. § 477A.12 by percentages of amounts paid during the preceding year under Minn. Stat. § 84A.51 (consolidated conservation areas fund).¹⁴¹ The percentages were as follows:

1. for the payment made July 15, 1984, 75 percent;
2. for the payment made July 15, 1985, 50 percent;
3. for the payment made July 15, 1986, 25 percent; and
4. for the payment made thereafter, 0 percent.

1986 Recodification of Minn. Stat. ch. 97. Minnesota’s game and fish laws were recodified in 1986. The PILT provisions contained in Minn. Stat. § 97.49 were codified as a separate section, Minn. Stat. § 97A.061, entitled “Payment in Lieu of Taxes.”¹⁴² The recodification reorganized and modernized the language in Minn. Stat. § 97.49, but did not substantively change the law.

1986 Change of Payment Source for Acquired Hunting Lands PILT to General Fund; Repeal in 1987. The 1986 legislature also passed laws to change to the source of payment for acquired hunting lands and game refuges from the game and fish fund to the general fund, effective July 1, 1987.¹⁴³ (Goose management croplands were to continue to receive payment from the game and fish funds.) However, in 1987, before the law took effect, the legislature amended Minn. Stat. § 97A.061 to change the funding source back to the game and fish fund.¹⁴⁴

Payment in Lieu of Taxes: A Report to the Minnesota Legislature, January 6, 1989. The Department of Natural Resources, Bureau of Real Estate Management submitted a report about

¹³⁹ *Id.*

¹⁴⁰ 1981 Minn. Laws, 1st Special Session, ch. 3, § 12.

¹⁴¹ 1984 Minn. Laws, ch. 502, art. 3, § 26.

¹⁴² 1986 Minn. Laws, ch. 386, art. 1, § 11; *see also* 1986 Minn. Laws, ch. 386, art. 4 §§ 29, 30 (changes to Minn. Stat. ch. 477A to correspond to recodification of Minn. Stat. § 97.49).

¹⁴³ 1986 Minn. Laws, ch. 383, §§ 13, 15, 18.

¹⁴⁴ 1987 Minn. Laws, ch. 404, § 117.

PILT to the Minnesota Legislature on January 6, 1989.¹⁴⁵ The report outlined problems with the PILT program related efficiency and equity, including:

- Unnecessarily complicated calculations inherent in the five statutes that governed the PILT program at the time.
- Fixed per-acre payments that poorly reflected land values, and often did not correspond to taxes on similar privately owned land.
- Complaints by townships and school districts that the payment allocations, approximately 75% of which were to counties, were unfair.
- A determination, based on a survey of other states' PILT programs, that no other states had payment formulas as complicated as Minnesota's.

The report recommended a comprehensive study of PILT to find ways to eliminate inequities in the payment formulas and also recommended repeal of laws that required calculation and deduction of various payments to the counties.

1990 PILT Authorized for LUP Lands. In 1990, the definition of “other natural resources land” was expanded to include land utilization project (LUP) land leased from the United States and administered by the commissioner of natural resources.¹⁴⁶ As with all other commissioner-administered lands classified as “other natural resources lands,” these lands received payment at the 37.5¢ per acre rate.

1993 Amendments to Acquired Hunting PILT Distribution. In 1993, two amendments to Minn. Stat. § 97A.061 were passed, which addressed distribution of the payments in lieu of taxes.¹⁴⁷ A sentence was added to subdivision 2, which provided: “Payment of a town’s or a school district’s allocation must be made by the county treasurer to the town or school district within 30 days of receipt of the payment to the county.” The goose management croplands provision, subdivision 3, was modified, as follows: “The county treasurer shall allocate and distribute the payment as provided in subdivision 2.”

1993 Deduction for State Forest Fund Payments Removed. In 1993, the legislature removed the requirement that payments made to counties or townships from the state forest fund be deducted from their payments under Minn. Stat. ch. 477A.¹⁴⁸

1994 Payment in Lieu of Taxes Study: Ad Valorem vs. Current Payments on State-Owned Land. In 1993, the legislature directed the commissioner of natural resources to complete a study

¹⁴⁵ Payments in Lieu of Taxes: A Report to the Minnesota Legislature, Minnesota Department of Natural Resources, Bureau of Real Estate Management, January 6, 1989.

¹⁴⁶ 1990 Minn. Laws, ch. 604, art. 4, § 16.

¹⁴⁷ 1993 Minn. Laws, ch. 375, art. 17, §§ 3, 4.

¹⁴⁸ 1993 Minn. Laws, ch. 13, art. 2 § 16. Minn. Stat. § 89.026, which authorized payments to the counties of 50% of the gross receipts from state forests within their boundaries, had been repealed the previous year. 1992 Minn. Laws, ch. 531, art. 2, § 32.

of PILT that compared payments under the existing system to payments that would be made under an ad valorem system.¹⁴⁹

The study¹⁵⁰ estimated the total market value of DNR-administered land and county-administered tax-forfeited land at \$1.2 billion, plus \$1.7 billion for state-owned shoreland. Based on those estimates of market value, the cost of ad valorem payments for those lands was estimated at \$26.1 million, plus \$41.9 million for shoreland. Changing the then-existing PILT program, which cost \$6.5 million annually, to an ad valorem system that excluded ad valorem payments for state-owned shoreland would have increased costs by 304%. The study determined that payment increases would have been concentrated in several northern Minnesota counties. It further concluded that ad valorem payments instead of PILT could potentially reduce tax rates in areas with substantial amounts of state land, thereby lowering the actual costs of ad valorem payments.

1994 Change of Payment Source for Acquired Hunting Lands PILT to General Fund. In 1994, Minn. Stat. § 97A.061 was amended to change the payment source for public hunting lands, game refuges and goose management croplands from the game and fish fund to the general fund.¹⁵¹ This change provided for an annual appropriation of the money for the payments from the general fund.

1994 Increases in Distribution Rates. In 1994, the legislature amended two of the PILT distribution rates in Minn. Stat. § 477A.14. The amount distributed to the county resource development fund was raised from 37.5 cents per acre of county-administered other natural resources land to 42.5 cents per acre of such land. The distribution to townships for other natural resources land within their boundaries was raised from 7.5 cents per acre to 8.5 cents per acre.¹⁵²

1994 Law to Add Land Value-Based Payment Option to Minn. Stat. § 477A.12, Subdivision 1; Veto by Governor. The legislature also passed laws in 1994 that changed the acquired lands rate to the greater of \$3 per acre or “three-fourths of the appraised value,” defined “appraised value” and raised the payment rate for county-administered other natural resources lands from 75 cents to 85 cents per acre and for DNR-administered other natural resources lands from 37.5 cents to 42 cents per acre.¹⁵³ However, the governor vetoed these amendments.¹⁵⁴

¹⁴⁹ 1993 Minn. Laws, ch. 172, § 5.

¹⁵⁰ PAYMENT IN LIEU OF TAXES STUDY: Ad Valorem vs. Current Payments On State-Owned Land, Report to the Minnesota State Legislature, Minnesota Department of Natural Resources and Payment in Lieu of Taxes Advisory Committee, February 15, 1994.

¹⁵¹ 1994 Minn. Laws, ch. 561, § 4.

¹⁵² 1994 Minn. Laws, ch. 632, art. 2, § 55.

¹⁵³ 1994 Minn. Laws, ch. 632, art. 2, § 54.

¹⁵⁴ *Id.*

1995 Change to 1994 Increases in Distribution Rates. In 1995, the increases to the two PILT distribution rates enacted in the preceding year were changed back to the original amounts.¹⁵⁵

1995 Law to Add Land Value-Based Payment Option to Minn. Stat. § 477A.12, Subdivision

1. In 1995, the legislature again passed a law to amend the acquired lands payment rate to the greater of \$3 per acre or three-fourths of one percent of the appraised value.¹⁵⁶ The amendment also defined appraised value as: “the purchase price for the first five years after acquisition. The appraised value of acquired natural resources land received as a donation is the value determined for the commissioner of natural resources by a licensed appraiser, or the county assessor's estimated market value if no appraisal is done. The appraised value must be determined by the county assessor every five years after the land is acquired.”¹⁵⁷

By adding the three-fourths of one percent of appraised value payment option for acquired lands, the legislature provided counties with the opportunity to receive substantially higher payments than under the \$3 per acre flat rate. However, there was no corresponding change to Minn. Stat. § 477A.14, subdivision 1, paragraph (b), which provides for distribution to townships. Instead, the township share of acquired lands payments remained fixed at 30 cents per acre, i.e., 10% of the \$3 per acre flat rate.

2000 Redefinition of Acquired Natural Resources Land to Include Certain Con-Con

Lands. In 2000, the definition of “acquired natural resources land” was amended to include “lands acquired by the state under chapter 84A [consolidated conservation lands] that are designated as state parks, state recreation areas, scientific and natural areas, or wildlife management areas”¹⁵⁸ and the definition of “other natural resources lands” was amended to exclude those con-con lands now defined as “acquired.”¹⁵⁹ The effect of this redefinition was a payment rate change for acquired con-con lands from the lowest rate (37.5¢/acre) to the highest rate in Minn. Stat. § 477A.12 (the greater of \$3/acre or three-fourths of one percent of the appraised value of all acquired lands).

Other 2000 Amendments. There were several other significant changes to the PILT provisions of Minn. Stat. ch. 477A in 2000:

- **Transfer of appropriation to commissioner of revenue.** Minn. Stat. § 477A.12 was amended so that the general fund appropriation to the commissioner of natural resources would be transferred to the commissioner of revenue to make the payments to the counties.¹⁶⁰

¹⁵⁵ 1995 Minn. Laws, ch. 220, § 126.

¹⁵⁶ 1995 Minn. Laws, ch. 220, § 125.

¹⁵⁷ *Id.*

¹⁵⁸ 2000 Minn. Laws, ch. 485, § 18.

¹⁵⁹ 2000 Minn. Laws, ch. 485, § 19.

¹⁶⁰ 2000 Minn. Laws, ch. 490, art. 6, § 11.

- **Timing of payments.** The timing of payments was changed to coincide with the first installment of local government aid under Minn. Stat. § 477A.015 (July 20).¹⁶¹
- **Inflation adjustment added.** Requirements were added that all flat rate payments and distributions be adjusted for inflation. The inflation adjustment was based on the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the U.S. Department of Commerce, Bureau of Economic Analysis.¹⁶² Application of the inflation adjustment was to start with the first quarter of 1994, rather than 1979, when the Minn. Stat. ch. 477A PILT law was enacted.¹⁶³
- **Purpose statement added.** A purpose statement was added to Minn. Stat. § 477A.12 (a), which provided: “As an offset for expenses incurred by counties and towns in support of natural resources lands, the following amounts are annually appropriated . . . from the general fund.”¹⁶⁴
- **Deductions and offsets.** The requirement that acquired hunting lands payments made under Minn. Stat. § 97A.061 and rentals paid to counties for leased state-owned lands under Minn. Stat. § 272.68, subdivision 3 be deducted from payments under Minn. Stat. § 477A.12 was removed.¹⁶⁵ Instead, the legislature amended Minn. Stat. § 97A.061 to provide that acquired hunting lands payments under that section would be “reduced by the amount of payment to that county or town under Minn. Stat. § 477A.12 for the same lands in the same year.”¹⁶⁶ The legislature retained the distribution scheme for hunting lands by adding language to both Minn. Stat. § 97A.061¹⁶⁷ and Minn. Stat. § 477A.14¹⁶⁸ providing that payments for acquired hunting lands would be allocated in accordance with Minn. Stat. § 97A.061, subdivision 2, i.e., like a tax on the land.

2005 Law Authorizing PILT for Camp Ripley Game Refuge. Minn. Stat. § 97A.061 was expanded in 2005 to authorize payment for land “owned by another state agency for military purposes and designated as a game refuge under section 97A.085.”¹⁶⁹ This amendment created an annual payment for Camp Ripley Game Refuge and became effective for aids paid in calendar year 2007 and thereafter. The rate, as enacted, was “50 percent of the dollar amount adjusted for

¹⁶¹ 2000 Minn. Laws, ch. 490, art. 6, § 12.

¹⁶² 2000 Minn. Laws, ch. 490, art. 6, §§ 11, 13, 14.

¹⁶³ 2000 Minn. Laws, ch. 490, art. 6, § 14.

¹⁶⁴ 2000 Minn. Laws, ch. 490, art. 6, § 11.

¹⁶⁵ 2000 Minn. Laws, ch. 490, art. 6, § 12.

¹⁶⁶ 2000 Minn. Laws, ch. 490, art. 6, § 1.

¹⁶⁷ 2000 Minn. Laws, ch. 490, art. 6, § 2.

¹⁶⁸ 2000 Minn. Laws, ch. 490, art. 6, § 13.

¹⁶⁹ 2005 Minn. Laws, 1st Special Session, ch. 1, art. 2, § 96 (codified as Minn. Stat. § 97A.061, subd. 1(b)).

inflation as determined under section 477A.12, subdivision 1, paragraph (a), clause (1) multiplied by the number of acres designated as a game refuge.”

2005 LUP Lands Payment Rate Increase. In 2005, LUP land was removed from the definition of “other natural resources land” and put into a separate definition category. The LUP payment rate was changed from 37.5 cents per acre, as adjusted for inflation, to 75 cents per acre, as adjusted for inflation.¹⁷⁰

2008 Law Authorizing Payment to City of Columbus. A 2008 amendment to Minn. Stat. § 97A.061 created an exception that allows payments to be distributed to a city under certain circumstances.¹⁷¹ If a town received PILT in 2006 or later and the town subsequently incorporated as a city, the city will continue the payments that would have been made had the town not incorporated. Payments under this provision will terminate if the city passes an ordinance that prohibits hunting within its boundaries. Currently, this provision only applies to the City of Columbus in Anoka County, which contains portions of Carlos Avery Wildlife Management Area.

2008 PILT Law for Vermilion State Park (Minn. Stat. § 477A.17). In 2008, the Legislature established Lake Vermilion State Park and described its boundaries.¹⁷² The law that established the park authorized a special PILT rate of 1.5% of the appraised value of the land that would apply instead of the usual acquired natural resources land payment rate under Minn. Stat. § 477A.12, subdivision 1(a)(1).¹⁷³ The PILT provisions were codified as Minn. Stat. § 477A.17. The “appraised value” for the first five years after acquisition is defined as “the purchase price of the land, plus the value of any portion of the land that is acquired by donation.” The law also created a distribution method for Vermilion State Park that is different from the distribution methods in both Minn. Stat. §§ 97A.061 and 477A.14, and provides that payments are to be distributed “to the taxing jurisdictions containing the property as follows: one-third to the school districts; one-third to the town; and one-third to the county.” The law further provides that “[t]he payment to school districts is not a county apportionment under Minn. Stat. § 127A.34 and is not subject to aid recapture” and allows each of the taxing districts receiving payments to “use the payments for their general purposes.”

As originally enacted, Minn. Stat. § 477A.17 required payments in lieu of taxes for Vermilion State Park to begin in fiscal year 2010. However, the law was amended, changing the timing of the first payment, before the acquisition of land for Vermilion State Park occurred on June 8, 2010.

¹⁷⁰ 2005 Minn. Laws, 1st Special Session, ch. 3, art. 1, §§ 31-33.

¹⁷¹ 2008 Minn. Laws, ch. 154, art. 2, § 1 (codified as Minn. Stat. § 97A.061, subd. 2(c)).

¹⁷² 2008 Minn. Laws, ch. 368, art. 3, § 2.

¹⁷³ 2008 Minn. Laws, ch. 368, art. 3, §§ 2, 3 (codified as Minn. Stat. § 477A.17 and to become effective upon acquisition of lands for the park described in 2008 Minn. Laws, ch. 368, art. 3, § 2).

2010 Amendment to Minn. Stat. § 477A.17. In 2010, Minn. Stat. § 477A.17 was amended to change the start of payments to fiscal year 2012.¹⁷⁴ The 2010 amendments also expanded the scope of Minn. Stat. § 477A.17 to make “land within the boundary of Soudan Underground Mine State Park” eligible for PILT at the 1.5% of appraised value payment rate.

2011 Repeal of Inflation Adjustment for Flat Payment Rates. The most recent amendments to Minnesota’s PILT laws occurred in the 2011 Special Session. These amendments repealed all inflation adjustments to flat rate payments and distributions and repealed Minn. Stat. § 477A.145, which described the process for calculating inflation adjustments.¹⁷⁵ The amendments also raised the flat payment and distribution rates, freezing them at the inflation adjusted 2011 levels. The pre-amendment and new rates are shown in Table B.

¹⁷⁴ 2010 Minn. Laws, ch. 389, art. 1, § 25.

¹⁷⁵ 2011 Minn. Laws, 1st Special Session, ch. 7, art. 6, § 1 (amendment to Minn. Stat. § 97A.061, subd. 1(b) repealing inflation adjustment to payment for Camp Ripley Game Refuge); § 19 (amendment to Minn. Stat. § 477A.11 deleting reference to Minn. Stat. § 477A.145), § 20 (amendment to Minn. Stat. § 477A.12 repealing inflation adjustments to flat-rate payments for acquired natural resources land, other natural resources land and LUP land and deleting references to Minn. Stat. § 477A.145), § 21 (amending Minn. Stat. § 477A.14 to repeal inflation adjustments to amounts distributed to counties for deposit in county resource development funds and in the county general revenue fund for lands located within unorganized townships, and to townships for lands located within their boundaries; references to Minn. Stat. § 477A.145 deleted), § 27 (repeal of Minn. Stat. § 477A.145).

Table B: Pre-Amendment and New Rates by Land Class and Distribution

| By land class | Flat rate before 2011 amendments | Flat rate after 2011 amendments | Applicable statute(s) |
|--|---|--|------------------------------|
| Acquired | \$3/acre adjusted for inflation | \$5.133/acre | MS § 477A.12, subd. 1(a)(1) |
| County-administered other | 75¢/acre adjusted for inflation | \$1.283/acre | MS § 477A.12, subd. 1(a)(2) |
| LUP | 75¢/acre adjusted for inflation | \$1.283/acre | MS § 477A.12, subd. 1(a)(3) |
| DNR-administered other | 37.5¢/acre adjusted for inflation | 64.2¢/acre | MS § 477A.12, subd. 1(a)(4) |
| Camp Ripley Game Refuge | 50% of \$3/acre adjusted for inflation | 50% of \$5.133/acre | MS § 97A.061, subd. 1(b) |
| By distribution | Flat rate before 2011 amendments | Flat rate after 2011 amendments | Applicable statute(s) |
| County-administered other distribution to county resource development fund | 37.5¢/acre adjusted for inflation | 64.2¢/acre | MS § 477A.14, subd. 1(a) |
| Acquired land distribution to townships | 30¢/acre adjusted for inflation | 51.3¢/acre | MS § 477A.14, subd. 1(b) |
| Other natural resources and LUP land distribution to townships | 7.5¢/acre adjusted for inflation | 12.8¢/acre | MS § 477A.14, subd. 1(b) |

Appendix E: Costing Models and Results

The 12 models that were run were:

1. Capping payment at \$20/acre
2. Capping payment at \$30/acre
3. Capping payment at \$40/acre
4. Capping payment at \$50/acre
5. Adjusting 1979 flat rate payments for inflation
6. Adjusting 1994 flat rate payments for inflation
7. 2010 PILT law – when inflation on flat rates were repealed
8. Flat rate payments for acquired land based on percentage of land owned by DNR
 - a. 0-10% would be paid \$12/acre
 - b. 11-20% would be paid \$10/acre
 - c. 21-40% would be paid \$8/acre
 - d. 41%+ would be paid \$6/acre
9. Flat rate payments for acquired lands based on percentage of land owned by DNR
 - a. 0-10% would be paid \$6/acre
 - b. 11-20% would be paid \$8/acre
 - c. 21-40% would be paid \$10/acre
 - d. 41%+ would be paid \$12/acre
10. Flat rate payments based on New Jersey
11. Freezing 2011 payments and adjusting for inflation
12. Freezing 2005 payments and adjusting for inflation

Links to models can be found under the July 26, 2012 meeting at:

<http://www.dnr.state.mn.us/aboutdnr/legislativeinfo/pilt/meetings.html>