Comparison Summary of

House File 392

Prepared by:

House Research Department and
Senate Counsel, Research and Fiscal Analysis Department

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HOUSE	SENATE
Federal Conformity: Date of Federal Conformity, and federal laws conformed to	
December 31, 2008 Conforms to: **The Heroes Earnings Assistance and Relief Tax Act,** Public Law	June 17, 2008 Conforms to: **The Heroes Earnings Assistance and Relief Tax Act,** Public Law

110-245, enacted June 17, 2008 **Heartland, Habitat, Harvest, and Horticulture Act of 2008,** Public Law 110-246, enacted June 18, 2008 **Housing Assistance Tax Act of 2008,** Public Law 110-289, enacted July 30, 2008 **Emergency Economic Stabilization Act of 2008**, Public Law 110-343, enacted October 3, 2008	110-245, enacted June 17, 2008 **Housing Assistance Tax Act of 2008, Sections 3012 and 3023,** Public Law 110-289, enacted July 30, 2008 **Emergency Economic Stabilization Act of 2008, Division C, Sections 202, 203 and 204,** Public Law 110-343, enacted October 3, 2008

Federal Conformity: Major federal changes conformed to	
The Heroes Earnings Assistance and Relief Tax Act: ‣ making permanent the ability of military personnel to count tax-exempt combat pay as earned income for the purpose of qualifying for the earned income tax credit (and, by reference, Minnesota's working family tax credit), effective in tax year 2008 ‣ modifying requirements and limitations relating to contributions to and distributions from tax advantaged accounts (IRAs, 401Ks, etc.) for members of the military ‣ imposing income tax on unrealized gain on property as if the property had been sold for fair market value on individuals with net worth over $2 million and over $600,000 of unrealized gains who relinquish their U.S. citizenship or terminate long-term residency on or after June 17, 2008	**The Heroes Earnings Assistance and Relief Tax Act:** ‣ making permanent the ability of military personnel to count tax-exempt combat pay as earned income for the purpose of qualifying for the earned income tax credit (and, by reference, Minnesota's working family tax credit), effective in tax year 2008 ‣ modifying requirements and limitations relating to contributions to and distributions from tax advantaged accounts (IRAs, 401Ks, etc.) for members of the military ‣ imposing income tax on unrealized gain on property as if the property had been sold for fair market value on individuals with net worth over $2 million and over $600,000 of unrealized gains who relinquish their U.S. citizenship or terminate long-term residency on or after June 17, 2008
Heartland, Habitat, Harvest, and Horticulture Act of 2008: ‣ extension of the special rule for contribution of conservation property by qualified farmers and ranchers, allowing deduction of contributions valued at greater than 50 percent of the donor's adjusted gross income, effective in tax year 2008 ‣ allowing deduction for site-specific actions recommended in management plans for endangered species	

Federal Conformity: Major federal changes conformed to	
‣ changing the depreciation schedule for race horses from three years to seven years, for horses two years old or younger ‣ allowing like-kind exchange treatment for shares in mutual ditch, reservoir, or irrigation companies (effective June 19, 2008) ‣ disallowing excess farming losses for taxpayers who receive certain federal subsidies	
Housing Assistance Tax Act of 2008: ‣ extension of the state and local bond interest exemption to bonds guaranteed by federal home loan banks ‣ excluding from alternative minimum taxable income interest for tax-exempt housing bonds issued for first-time home buyers, moderate income housing, and owner-occupied housing for veterans ‣ reforming Real Estate Investment Trust (REIT) treatment ‣ making changes related to the Gulf Opportunity Zone losses and bonus depreciation ‣ apportioning the exclusion of gain on the sale of an individual's principal residence for time periods after January 1, 2009, when the residence was not used as the principal residence **Emergency Economic Stabilization Act of 2008:** ‣ extension of the teacher classroom expense deduction of up to \$250 to tax years 2008 and 2009 ‣ extension of the authorization for individuals age 70½ or older to transfer up to \$100,000 from a traditional IRA or Roth IRA directly to a qualified charity, while excluding that amount	**Housing Assistance Tax Act of 2008:** ‣ extension of the state and local bond interest exemption to bonds guaranteed by federal home loan banks ‣ excluding from alternative minimum taxable income interest for tax-exempt housing bonds issued for first-time home buyers, moderate income housing, and owner-occupied housing for veterans

from adjusted gross income to tax years 2008 and 2009

- extension of preferential treatment of dividends of regulated investment companies to tax years 2008 and 2009

- extension of the enhanced deductions for contributions of food inventory, and book inventory to tax years 2008 and 2009

- extension of various provisions related to depreciation and expensing, including more generous rules for cellulosic biofuel plant property, refineries, energy efficient commercial buildings, qualified smart electric distribution property, certain reuse and recycling property, 15-year straight-line recovery for leasehold and restaurant improvements, including new restaurant property and improvements to retail property, advanced mine safety equipment, accelerated deprecation for business property on Indian reservations, brownfields environmental remediation costs, qualified film and television productions, and certain farming business machinery and equipment

- provision of preferential tax treatment within the Midwestern Disaster Relief Area, including temporary suspension of limits on charitable contributions, and temporary suspension on limits on casualty losses. The area as defined as counties in which a disaster was declared between May 20, 2008, and July 31, 2008; this includes the Minnesota counties of Cook, Fillmore, Freeborn, Houston, Mower, and Nobles.

- allowing an additional standard deduction for casualty losses occurring in a federally declared disaster area, for disasters occurring before January 1, 2010 (does not apply to the Midwestern Disaster Relief Area)

- providing more generous expensing and depreciation for 2008 and 2009 federally declared disaster areas, excluding areas in the Midwestern Disaster Relief Area and a similar Kansas

Federal Conformity: Major federal changes conformed to	
Disaster Relief Area. ‣ Requiring nonqualified deferred compensation of certain taxpayers to be included in taxable income at the time of vesting. ‣ changing requirements for employer-sponsored group health plans to qualify for the employee income exclusion, as part of the Mental Health Parity and Addiction Equity Act	

Federal Conformity: Major federal changes not conformed to requiring additions on Minnesota return	
New additional standard deduction amount of $500 for property taxes paid ($1,000 for married joint filers), effective for tax years 2008 and 2009 only Extension of the higher education tuition expense deduction of up to $4,000 to tax years 2008 and 2009 Extension of the enhanced deduction for contributions of computers to tax years 2008 and 2009 Extension of the additional subpart F income exclusion, tax year 2010 (corporations only)	New additional standard deduction amount of $500 for property taxes paid ($1,000 for married joint filers), effective for tax years 2008 and 2009 only Extension of the higher education tuition expense deduction of up to $4,000 to tax years 2008 and 2009 Extension of the teacher classroom expense deduction of up to $250 to tax years 2008 and 2009 Extension of the special rule for contribution of conservation property by qualified farmers and ranchers, allowing deduction of contributions valued at greater than 50 percent of the donor's adjusted gross income, effective in tax year 2008 Deduction for site-specific actions recommended in management plans for endangered species Extension of the authorization for individuals age 70½ or older to transfer up to $100,000 from a traditional IRA or Roth IRA directly to a qualified charity, while excluding that amount from adjusted gross income to tax years 2008 and 2009 Extension of preferential treatment of dividends of regulated

Federal Conformity:	Major federal changes not conformed to requiring additions on Minnesota return
	investment companies to tax years 2008 and 2009 Extension of the enhanced deductions for contributions of food inventory, and book inventory to tax years 2008 and 2009 Provision of preferential tax treatment within the Midwestern Disaster Relief Area, including temporary suspension of limits on charitable contributions, and temporary suspension on limits on casualty losses. The area as defined as counties in which a disaster was declared between May 20, 2008, and July 31, 2008; this includes the Minnesota counties of Cook, Fillmore, Freeborn, Houston, Mower, and Nobles Additional standard deduction for casualty losses occurring in a federally declared disaster area, for disasters occurring before January 1, 2010 (does not apply to the Midwestern Disaster Relief Area)

Federal Conformity:	Major federal changes not conformed to requiring subtractions on Minnesota return
None	Disallowing excess farming losses for taxpayers who receive certain federal subsidies Apportioning the exclusion of gain on the sale of an individual's principal residence for time periods after January 1, 2009, when the residence was not used as the principal residence Requiring nonqualified deferred compensation of certain taxpayers to be included in taxable income at the time of vesting.

Federal Conformity:	Major federal changes not conformed to requiring compliance with previous federal law
None	Allowing like-kind exchange treatment for shares in mutual ditch, reservoir, or irrigation companies (effective June 19, 2008) Real Estate Investment Trust (REIT) treatment regarding calculation of taxable income Changes to the Gulf Opportunity Zone losses and bonus depreciation Numerous changes related to depreciation and expensing, including

	more generous rules for cellulosic biofuel plant property, refineries, energy efficient commercial buildings, qualified smart electric distribution property, certain reuse and recycling property, 15-year straight-line recovery for leasehold and restaurant improvements, including new restaurant property and improvements to retail property, advanced mine safety equipment, accelerated deprecation for business property on Indian reservations, brownfields environmental remediation costs, qualified film and television productions, racehorses, and certain farming business machinery and equipment Changes providing more generous expensing and depreciation for 2008 and 2009 federally declared disaster areas, excluding areas in the Midwestern Disaster Relief Area and a similar Kansas Disaster Relief Area.
Federal Conformity: Major federal changes not conformed to requiring recalculation of AGI for state tax purposes	
None	Extension of the authorization for individuals age 70½ or older to transfer up to $100,000 from a traditional IRA or Roth IRA directly to a qualified charity, while excluding that amount from adjusted gross income to tax years 2008 and 2009 Changes related to depreciation and expensing, including more generous rules for cellulosic biofuel plant property, refineries, energy efficient commercial buildings, qualified smart electric distribution property, certain reuse and recycling property, 15-year straight-line recovery for leasehold and restaurant improvements, including new restaurant property and improvements to retail property, advanced mine safety equipment, accelerated deprecation for business property on Indian reservations, brownfields environmental remediation costs, qualified film and television productions, racehorses, and certain farming business machinery and equipment Changes providing more generous expensing and depreciation for 2008 and 2009 federally declared disaster areas, excluding areas in the Midwestern Disaster Relief Area and a similar Kansas Disaster Relief Area.
Federal Conformity: Revenue offset for cost of conformity	

Delays payment of corporate tax refunds from FY 09 to FY 10 and from FY 11 to FY 12	None
Federal Conformity: Other	
Commissioner of Revenue. Prohibits the governor from appointing as commissioner of revenue an individual who has ‣ Been convicted of a criminal violation of federal or state tax or revenue law; ‣ Failed to file a required income tax return within one year of its due date; or ‣ Unpaid federal, state, or local taxes for a prior tax year at the time the appointment is announced.	No provision
Withholding on differential pay; temporary prohibition on penalties and interest. Prohibits the commissioner from assessing tax penalty or interest against an employer for failure to withhold taxes on wage differentials paid in calendar year 2009 to members of military called to active service. A wage differential is the amount by which the servicemember's civilian pay exceeds his or her military pay; some employers have chosen to voluntarily continue to pay this amount to servicemembers while they are deployed. Federal changes to the definition of "wages" being conformed to in this bill requires withholding on differential pay for wages paid after December 31, 2008.	Same. Prohibits the commissioner of revenue from assessing a tax, penalty or interest against an employer for ‣ Failing to withhold tax from differential wages, as defined in Internal Revenue Code, section 3401(h)(2), paid before January 1, 2010, to An employee who has been called to active duty in the military services

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Green Acres	
No provision	**Section 1** provides that the ten-acre minimum size requirement that applies to property that will qualify for Green Acres will be considered to be met for real estate that had consisted of ten acres or more that had been eligible for Green Acres treatment under the pre-2008 law. This section also eliminates the disqualification of land that is enrolled in the RIM program, the CRP program or a similar state or federal conservation program.
	Section 2 modifies the grandfather provision that applies to real estate that had been subject to Green Acres treatment for assessment year 2008, but would no long qualify for the 2009 assessment year due to modifications of requirements under the 2008 Green Acres law changes. The grandfather is modified in the following ways:

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	The disqualification for an entire parcel after any part of the land is sold is eliminated so that it would only apply to the portion of the land that is sold, transferred or subdivided. The grandfather expires at the earlier of such a transfer or the 2013 assessment. The seven-year recapture provision is eliminated; instead, the general three-year recapture provision would apply to land that no longer qualifies. A transfer to a son or daughter of the owner will not disqualify land from continuing to be subject to Green Acres treatment. When property that had been assessed under this subdivision is removed from the Green Acres program, and is enrolled in the land conservation property tax program as provided in **Section 4**, no recapture will occur.
	Section 3 modifies the general recapture provision to provide that any real property that had been subject to Green Acres prior to May 29, 2008, and that ceases to qualify for Green Acres treatment between May 28, 2008 and January 1, 2010, is not subject to any recapture.
	Section 4 establishes a new land conservation property tax program. Class 2b property is eligible for inclusion in this program if it had been treated as Green Acres property prior to the 2008 law changes or if it is part of an agricultural homestead that is contiguous to Class 2a land under the same ownership. The land must consist of at least ten acres, and a conservation management plan for the land must be prepared by an approved plan writer and implemented during the period when the land is in program. The land must be enrolled for a minimum of eight years under a covenant, and there may be no delinquent property taxes on the land. The property may not be enrolled in this program at the same time when it is subject to Green Acres, the Open Space Recreational program, reduced valuations for conservation restrictions or easements or the sustainable forest program. The value of real estate that qualifies for the program must not exceed the value prescribed by the Commissioner of Revenue for Class 2a tillable property in that county. The house, garage and surrounding one acre of land and minor, ancillary, nonresidential structures will be valued according to regular assessment practices. The assessor must not consider the presence of commercial, industrial, residential or seasonal recreational land influences that may affect the value of real estate in the program. The assessor will make a separate determination of the market value of the real estate based on its highest and best use and record that value on the property assessment records. The owner of property must apply for the program by May 1 of the year prior to the taxes payable year, and the application will remain in effect for subsequent years under the termination of the

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	covenant. The application must be filed with the assessor who may require proof by affidavit or otherwise that the property qualifies.
	
	The owner of the property is required to sign a covenant agreement that will be filed with the county recorder. The covenant agreement must include:
	
	a legal description of the area,
	$ the name and address of the owner,
	$ a statement that the land described in the covenant must be kept as conservation land meeting the requirements of this program for the duration of the covenant,
	$ a statement that the landowner may terminate the covenant agreement by notifying the county assessor in writing four years in advance of the date of the proposed termination, provided that notice of this intent to terminate may not be given at any time during the first four years when the land is subject to the covenant,
	a statement that the covenant is binding on the owner or the owner's successor or assigns, and runs with the land and,
	a witnessed signature of the owner agreeing by covenant to maintain the land as required.
	
	After a covenant has been terminated, the land that had been subject to it will not be eligible for returning to the program for a period of at least three years after the termination. When the covenant has been terminated, the land will be subject to recapture of the difference between the taxes that would have been paid on it but for this program, and the actual taxes paid for a period of three year; that tax would be a lien against the property.
	
	Special assessments that were levied after June 1, 2009 for improvements made to real property in the program, along with any interest on the special assessments, will be deferred as long as the property meets the conditions of the program. When property no longer qualifies, all deferred special assessments, plus interest, must be paid in equal installments spread over the time remaining until the last maturity date of bonds that were issued to finance the improvements for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest must be payable within 90 days. This deferral does not apply to special assessments levied by a county or district court for public water and sewer systems, or by a watershed district.

	Section 5 modifies the requirement for inclusion of certain Class 2b property within the Class 2a classification. Current law provides that Class 2a property may contain property that would

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	otherwise be classified as 2b, including sloughs, wooded wind shelters, acreage abutting ditches, and other similar land that is impractical for the assessor to value separately from the rest of the property. This section would provide that the assessor must include in Class 2a property those types of property that would otherwise be classified as 2b and adds to the list of this type of properties ravines and rock piles; it also specifies that this property must be included if it is unlikely to be able to be sold separately from the rest of the property.
	Section 6 requires the Commissioner of Revenue to study and annually report to the chairs of the committees on taxes of Senate and House of Representatives on: trends in market values of Class 2a and 2b properties, Green Acres value methodology and determinations and, assessment and classification practices pertaining to Class 2a and 2b property.