A bill for an act

relating to game and fish; proposing an amendment to the Minnesota Constitution, article XI, to dedicate a portion of the sales tax on hunting and fishing supplies and equipment to game and fish purposes; establishing the quality wildlife initiative fund and council; repealing sales tax on fur clothing; amending Minnesota Statutes 2006, sections 297A.61, by adding a subdivision; 297A.94; proposing coding for new law in Minnesota Statutes, chapter 97A; repealing Minnesota Statutes 2006, section 295.60.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, a section shall be added to article XI, to read:

Sec. 15. Beginning July 1, 2009, the sales and use tax receipts equal to the state sales and use tax of 6.5 percent on sales and uses of all hunting and fishing equipment that are used to take game and fish and that are taxable under the general state sales and use tax law, plus penalties and interest and reduced by any refunds, shall be deposited in the quality wildlife initiative fund and may be spent only to enhance the population and quality of game and fish in Minnesota and provide hunter and angler access. The money dedicated under this section shall be appropriated by law and shall not be used as a substitute for traditional funding sources for the purposes specified, but the dedicated money shall supplement traditional sources of funding for those purposes. A quality wildlife initiative fund is created in the state treasury. Land acquired with money deposited in the quality wildlife initiative fund under this section must be open to public taking of game and fish during the open season.

Sec. 2. **SUBMISSION TO VOTERS.**

The proposed amendment shall be submitted to the people at the 2008 general election. The question submitted shall be:

"Shall the Minnesota Constitution be amended to provide funding beginning July 1, 2009, to enhance the population and quality of game and fish in Minnesota and provide hunter and angler access by dedicating the sales and use tax receipts equal to the state sales and use tax of 6.5 percent on taxable sales of supplies and equipment used to take game and fish?

Yes ....
No ...."

Sec. 3. **[97A.056] QUALITY WILDLIFE INITIATIVE FUND; QUALITY WILDLIFE INITIATIVE COUNCIL.**

Subdivision 1. **Fund.** The quality wildlife initiative fund is established in the Minnesota Constitution, article XI, section 15. At least 99 percent of the money appropriated from the fund must be spent on game and fish projects on public and private lands.

Subd. 2. **Quality Wildlife Initiative Council.** (a) A Quality Wildlife Initiative Council of 11 members is created. Each member of the council shall be appointed by the governor with the advice and consent of the senate. Not more than six council members shall belong to the same political party. The governor shall select at least one member from each congressional district, with three at-large members.

(b) To be eligible for appointment to the council, a prospective member must demonstrate expertise and experience in the science, policy, or practice of the protection, conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife, and other natural resources. Prior service on multimember boards with grantmaking responsibilities or prior experience in the management of a business enterprise is also recommended.

(c) Members shall appoint a chair who shall preside and convene meetings as often as necessary to conduct the duties prescribed by this section.

(d) Membership terms are six years, except that members shall serve on the council until their successors are appointed.

(e) Vacancies occurring on the council do not affect the authority of the remaining members of the council to carry out their duties. Vacancies shall be filled in the same manner as under paragraph (a). A member may be removed from the council upon a super-majority of eight votes in favor of the removal of that member.

Subd. 3. **Duties of council.** (a) The council shall develop a biennial budget plan for expenditures from the quality wildlife initiative fund. The biennial budget plan may include grants to local fishing and hunting groups to improve, enhance, or protect game and fish resources. By August 15 of each even-numbered year, the council shall submit the budget plan to the commissioner of finance.

(b) In the biennial budget submitted to the legislature, the governor shall submit separate budget detail for planned expenditures from the quality wildlife initiative fund as recommended by the council.

(c) Entities receiving appropriations from the quality wildlife initiative fund shall submit a work program and semiannual progress reports to the Quality Wildlife Initiative Council in the form determined by the council.

Subd. 4. **Administration.** (a) The council may appoint legal and other personnel and consultants necessary to carry out functions and duties of the council. Permanent employees shall be in the unclassified service. The council may request staff assistance and data from any other agency of state government as needed for the execution of the responsibilities of the council and an agency must promptly furnish the requested assistance or data.

(b) The administrative expenses of the council shall be paid from the quality wildlife initiative fund and the outdoor heritage fund.

(c) A council member or an employee of the council may not participate in or vote on a decision of the council relating to an organization in which the member or employee has either a direct or indirect personal financial interest. While serving on or employed by the council, a person shall avoid any potential conflict of interest.

Subd. 5. **Additional duties; outdoor heritage fund.** (a) The council shall develop a biennial budget plan for expenditures from the outdoor heritage fund. The biennial budget plan may include grants to local fishing and hunting groups to improve, enhance, or protect game and fish resources. By August 15 of each even-numbered year, the council shall submit the budget plan to the commissioner of finance.

(b) The administrative expenses of the council related to the development of the plan and other duties of the council under paragraph (a) may be paid from the outdoor heritage fund.

Sec. 4. Minnesota Statutes 2006, section 297A.61, is amended by adding a subdivision to read:

Subd. 38. **Quality wildlife initiative retailer.** "Quality wildlife initiative retailer" is a retailer that derives 60 percent or more of its annual gross receipts in the previous calendar year from the sale of hunting and fishing equipment. "Hunting and fishing equipment" means all firearms, including pistols and revolvers; all sport fishing equipment as defined in the United States Code, title 26, subcode D, chapter 32, subchapter D, part I, section 4162; electric outboard motors; and fish-locating sonar devices. Every retailer that qualifies as a quality wildlife initiative retailer shall annually certify to the commissioner on a form prescribed by the commissioner that they meet the requirements of this subdivision by March 1 of the year following the end of a calendar year.

EFFECTIVE DATE. This section is effective July 1, 2009, if the constitutional amendment proposed in section 1 is adopted by the voters and applies to sales and purchases made after January 1, 2009.

Sec. 5. Minnesota Statutes 2006, section 297A.94, is amended to read:

297A.94 DEPOSIT OF REVENUES.

(a) Except as provided in this section and the Minnesota Constitution, article XI, section 15, the commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed by this chapter in the state treasury and credit them to the general fund.

(b) The commissioner shall deposit taxes in the Minnesota agricultural and economic account in the special revenue fund if:

(1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and

(2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty account must be reduced by any refunds and by the costs incurred by the Department of Revenue to administer and enforce the assessment and collection of the taxes.

(c) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and

(2) after the requirements of clause (1) have been met, the balance to the general fund.

(d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.

(e) For fiscal year 2001, 97 percent; for fiscal years 2002 and 2003, 87 percent; and for fiscal year 2004 and thereafter, 72.43 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

(1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;

(2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;

(3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;

(4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and

(5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota Zoological Garden, the Como Park Zoo and Conservatory, and the Duluth Zoo.

(f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season, except that in aquatic management areas or on lands where angling easements have been acquired, fishing may be prohibited during certain times of the year and hunting may be prohibited. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

<u>(g) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on all sales made by quality wildlife initiative retailers, as defined in section 297A.61, subdivision 38, in the general fund and transfer the amount collected on a quarterly basis into the quality wildlife initiative fund under section 97A.056.</u>

EFFECTIVE DATE. This section is effective for sales and purchases made after January 1, 2009, if the constitutional amendment proposed in section 1 is adopted by the voters.

Sec. 6. **FUR TAX PAYMENTS.**

(a) Furriers must file the annual return, required by Minnesota Statutes, section 295.60, subdivision 5, which otherwise would be due March 15, 2009, by September 15, 2008.

(b) If a furrier is required by Minnesota Statutes, section 295.60, subdivision 3, to make installments of quarterly estimates, then the furrier shall make the last installment by July 15, 2008.

EFFECTIVE DATE. This section is effective July 1, 2008, for sales and purchases made prior to July 1, 2008.

Sec. 7. **REPEALER.**

Minnesota Statutes 2006, section 295.60, is repealed.

Sec. 8. **EFFECTIVE DATES.**

(a) Sections 1 and 2 apply to sales and uses occurring after June 30, 2009.

(b) Section 3 is effective July 1, 2009, if the constitutional amendment proposed in section 1 is adopted by the voters, except that section 3, subdivision 5, is effective if the constitutional amendment proposed in section 1 is adopted by the voters and the constitutional amendment proposed in Minnesota Laws 2008, chapter 151, section 1, is adopted by the voters.

(c) Section 7 is effective for sales and purchases made after June 30, 2008.

295.60 SPECIAL FUR CLOTHING TAX.

Subdivision 1. **Imposition.** If clothing made of fur is not subject to the sales tax under chapter 297A, a tax is imposed on each furrier equal to 6.5 percent of gross revenues from retail sales in Minnesota of clothing made from fur.

Subd. 1a. **Use tax; credit for taxes paid.** (a) A person that receives fur clothing for use or storage in Minnesota, other than from a furrier that paid the tax under subdivision 1, is subject to tax at the rate imposed under subdivision 1. Liability for the tax is incurred when the person has possession of the fur clothing in Minnesota. The tax must be remitted to the commissioner in the manner prescribed by subdivision 3.

(b) A person that has paid taxes to another jurisdiction on the same transaction and is subject to tax under this section is entitled to a credit for the tax legally due and paid to another jurisdiction to the extent of the lesser of (1) the tax actually paid to the other jurisdiction, or (2) the amount of tax imposed by Minnesota on the transaction subject to tax in the other jurisdiction.

Subd. 1b. **Tax collection required.** A furrier with nexus in Minnesota, who is not subject to tax under subdivision 1, is required to collect the tax imposed under subdivision 1a from the purchaser of the clothing made from fur and give the purchaser a receipt for the tax paid. The tax collected must be remitted to the commissioner in the manner prescribed by subdivision 3.

Subd. 1c. **Taxes paid to another jurisdiction; credit.** A furrier that has paid taxes to another jurisdiction measured by gross revenue and is subject to tax under this section on the same gross revenues is entitled to a credit for the tax legally due and paid to another jurisdiction to the extent of the lesser of (1) the tax actually paid to the other jurisdiction, or (2) the amount of tax imposed by Minnesota on the gross revenues subject to tax in the other taxing jurisdictions.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Commissioner" means the commissioner of revenue.

(c) "Furrier" means a retailer that sells clothing made of fur.

(d) "Clothing made of fur" means articles of clothing made of fur on the hide or pelt, and articles of clothing of which such fur is the component material of chief value, but only if such value is more than three times the value of the next most valuable material.

(e) "Retail sale" has the meaning given in section 297A.61, subdivision 4.

(f) "Delivered outside of Minnesota" means fur clothing which the furrier delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not returned to a point within Minnesota, except in the course of interstate commerce.

Subd. 2a. **Exemptions.** Payments received by a furrier for clothing made of fur delivered outside of Minnesota are exempt from gross revenues subject to the fur clothing tax.

Subd. 3. **Payment.** (a) Each furrier shall make estimated payments of the taxes for the calendar year in quarterly installments to the commissioner by April 15, July 15, October 15, and January 15 of the following calendar year.

(b) Estimated tax payments are not required if:

(1) the tax for the current calendar year is less than $500; or

(2) the tax for the previous calendar year is less than $500, if the taxpayer had a tax liability and was doing business the entire year.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270C.40, from the due date of the payment until paid or until the due date of the annual return, whichever comes first. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) the tax for the actual gross revenues received during the quarter, or (2) one-quarter of the total tax for the previous calendar year if the taxpayer had a tax liability and was doing business the entire year.

Subd. 4. **Electronic funds transfer payments.** A taxpayer with an aggregate tax liability of $120,000 or more during a fiscal year ending June 30 must remit all liabilities by electronic means.

Subd. 5. **Annual return.** The taxpayer must file an annual return reconciling the estimated payments by March 15 of the following calendar year.

Subd. 6. **Form of returns.** The estimated payments and annual return must contain the information and be in the form prescribed by the commissioner.

Subd. 7. **Application of other chapters.** Unless specifically provided otherwise by this section, the interest, criminal penalties, and refunds provisions in chapter 289A, the civil penalty provisions applicable to withholding and sales taxes under section 289A.60, and the audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A, apply to taxes imposed under this section.

Subd. 8. **Interest on overpayments.** Interest must be paid on an overpayment refunded or credited to the taxpayer from the date of payment of the tax until the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the due date of the return or the date of actual payment of the tax, whichever is later.

Subd. 9. **Deposit of revenues.** The commissioner shall deposit all revenues, including penalties and interest, derived from the tax imposed by this section in the general fund.