A bill for an act

relating to taxation; providing for subtraction from income attributable to herd eradication; increasing the bovine testing credit in certain areas; providing a state paid property tax credit for property in bovine tuberculosis management zones in certain cases; providing for sales tax exemption for certain fencing materials; appropriating money; amending Minnesota Statutes 2006, sections 290.01, subdivision 19a, as amended; 290.06, subdivision 33, as amended; 290.091, subdivision 2, as amended; 297A.69, subdivision 4; Minnesota Statutes 2007 Supplement, sections 273.1393; 290.01, subdivision 19b, as amended; proposing coding for new law in Minnesota Statutes, chapter 273.

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

Section 1. **[273.113] TAX CREDIT FOR PROPERTY IN BOVINE TUBERCULOSIS MANAGEMENT ZONES.**

Subdivision 1. **Definition.** For the purposes of this section, "bovine tuberculosis management zone" means the area within the ten-mile radius around the five presumptive tuberculosis-positive deer sampled during the fall 2006 hunter-harvested surveillance effort.

Subd. 2. **Eligibility; credit on agricultural land; cattle herds.** Agricultural land classified as class 2a or 2b under section 273.13, subdivision 23, located in a bovine tuberculosis management zone is eligible for a property tax credit if the property owner has eradicated a cattle herd that had been kept on that land for at least part of the year in order to prevent the onset or spread of bovine tuberculosis. The credit is equal to the property tax on the parcel where the herd had been located. The credit is only on that portion of the tax relating to the market value of the land. To initially qualify for the tax credit, the property owner shall file an application with the county by January 2 of the year following the calendar year when the herd was eradicated. The credit must be given for each taxes payable year following the calendar year when the herd was eradicated and must terminate for all taxes payable years beginning after the calendar year when a new herd of cattle was placed on the land. The auditor shall indicate the amount of the property tax reduction on the property tax statement of each taxpayer receiving a credit under this section.

Subd. 3. **Eligibility; credit on hunting land; deer and elk herds.** Land located in a bovine tuberculosis management zone that is primarily used for hunting purposes is eligible for a property tax credit if (1) the property owner or the Department of Natural Resources has eradicated the deer and elk herd on that land in order to prevent the onset or spread of bovine tuberculosis, (2) the property owner adheres strictly to the deer and elk feeding ban, and (3) the property owner makes every effort to keep their land free of deer and elk. The credit is equal to the property tax on the parcel where the herd had been located. The credit is only on that portion of the tax relating to the market value of the land. To initially qualify for the tax credit, the property owner shall file an application with the county by January 2 of the year following the calendar year when the deer or elk herd was eradicated. To receive the tax credit in subsequent years, the property owner shall file by January 2 of each subsequent year until the state is upgraded to a bovine tuberculosis status of modified accredited advanced. The county board must annually approve the application before the credit is allowed. The credit is for each taxes payable year following the calendar year when the deer or elk herd was eradicated and must terminate as provided in subdivision 5. The auditor shall indicate the amount of the property tax reduction on the property tax statement of each taxpayer receiving a credit under this section.

Subd. 4. **Reimbursement for lost revenue; appropriations.** The county auditor shall certify to the commissioner of revenue, as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29, the amount of tax lost to the county from the property tax credits under subdivisions 2 and 3. Any prior year adjustments must also be certified in the abstracts of tax lists. The commissioner of revenue shall review the certifications to determine their accuracy. The commissioner may make the changes in the certification that are considered necessary or return a certification to the county auditor for corrections. The commissioner shall reimburse each taxing district for the taxes lost. The payments must be made at the time provided in section 273.1398, subdivision 6, for payment to taxing jurisdictions in the same proportion that the ad valorem tax is distributed. The amount necessary to make the reimbursements under this section is annually appropriated from the general fund to the commissioner of revenue. The credit paid under this section shall be deducted from the tax due on the property as provided in section 273.1393.

Subd. 5. **Termination of credit.** The credit provided under this section ceases to be available beginning with any assessment year following the date when the United

States Department of Agriculture publishes notice in the Federal Register that the state is upgraded to a bovine tuberculosis status of modified accredited advanced.

EFFECTIVE DATE. This section is effective beginning with taxes payable in 2009.

Sec. 2. Minnesota Statutes 2007 Supplement, section 273.1393, is amended to read:

273.1393 COMPUTATION OF NET PROPERTY TAXES.

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

(1) disaster credit as provided in sections 273.1231 to 273.1235;

(2) powerline credit as provided in section 273.42;

(3) agricultural preserves credit as provided in section 473H.10;

(4) enterprise zone credit as provided in section 469.171;

(5) disparity reduction credit;

(6) conservation tax credit as provided in section 273.119;

(7) homestead and agricultural credits as provided in section 273.1384;

(8) taconite homestead credit as provided in section 273.135; ~~and~~

(9) supplemental homestead credit as provided in section 273.1391; and

(10) bovine tuberculosis management credit as provided in section 273.113.

The combination of all property tax credits must not exceed the gross tax amount.

EFFECTIVE DATE. This section is effective for taxes payable in 2009 and thereafter.

Sec. 3. Minnesota Statutes 2006, section 290.01, subdivision 19a, as amended by Laws 2008, chapter 154, article 3, section 2, and Laws 2008, chapter 154, article 4, section 3, is amended to read:

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income or sales and use taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid or sales and use taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income or sales and use tax is the last itemized deduction disallowed;

(3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and taxes based on net income paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10 other than expenses or interest used in computing net interest income for the subtraction allowed under subdivision 19b, clause (1);

(6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the

amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed;

(8) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(9) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

(10) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

(11) the amount of expenses disallowed under section 290.10, subdivision 2;

(12) for taxable years beginning after December 31, 2006, and before January 1, 2008, the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income; ~~and~~

(13) for taxable years beginning after December 31, 2006, and before January 1, 2008, the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income; and

(14) the amount of subtraction claimed under subdivision 19b, clause (17), in the first taxable year that begins after the expiration of the required 12-month period to the extent the taxpayer fails to purchase qualifying property within that period.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 4. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19b, as amended by Laws 2008, chapter 154, article 3, section 3, and Laws 2008, chapter 154, article 11, section 11, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed $1,625 for each qualifying child in grades kindergarten to 6 and $2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over $500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,

"federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (14), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (14), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes services performed exclusively for purposes of basic combat training, advanced individual training, annual training, and periodic inactive duty training; special training periodically made available to reserve members; and service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed $10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified

expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a nonresident who is a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public Law 108-189, section 101(2); ~~and~~

(16) international economic development zone income as provided under section 469.325; and

(17) to the extent included in federal taxable income, net capital gain, as that term is used in section 1(h) of the Internal Revenue Code, or any other income attributable to or directly resulting from the eradication of a cattle herd to prevent the spread of bovine tuberculosis or the receipt of payments to compensate the taxpayer for the eradication. A taxpayer qualifies for the subtraction under this clause only if the taxpayer agrees, in a form prescribed by the commissioner, to purchase an amount of qualifying property equal in value to the subtraction claimed within the 12-month period that begins on the date the area of the taxpayer's farm has been declared free of bovine tuberculosis. For purpose of this clause, "qualifying property" means cattle, including all the costs related to their purchase such as commissions, fees, and transportation, and any other property related to their husbandry.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 5. Minnesota Statutes 2006, section 290.06, subdivision 33, as amended by Laws 2008, chapter 154, article 11, section 13, is amended to read:

Subd. 33. **Bovine testing credit.** (a) An owner of cattle in Minnesota may take a credit against the tax due under this chapter for an amount equal to ~~one-half~~ a percentage of the expenses incurred during the taxable year to conduct tuberculosis testing on those cattle. The percentage equals 100 percent for testing of cattle in a split state zone designated by the United States Department of Agriculture as modified accredited or accreditation preparatory for bovine tuberculosis, and 50 percent for testing of all other cattle.

(b) If the amount of credit which the taxpayer is eligible to receive under this subdivision exceeds the taxpayer's tax liability under this chapter, the commissioner of revenue shall refund the excess to the taxpayer.

(c) The amount necessary to pay claims for the refund provided in this subdivision is appropriated from the general fund to the commissioner of revenue.

(d) Expenses incurred in a calendar year in which tuberculosis testing of cattle in Minnesota is not federally required are not allowed in claiming the credit under paragraph (a).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 6. Minnesota Statutes 2006, section 290.091, subdivision 2, as amended by Laws 2008, chapter 154, article 4, section 7, is amended to read:

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code:

(A) for taxable years beginning before January 1, 2006, to the extent that the deduction exceeds 1.0 percent of adjusted gross income;

(B) for taxable years beginning after December 31, 2005, to the full extent of the deduction.

For purposes of this clause, "adjusted gross income" has the meaning given in section 62 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (11), ~~and~~ (12)<u>, and (14)</u>;

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (9) to ~~(16)~~ <u>(17)</u>.

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Net minimum tax" means the minimum tax imposed by this section.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 7. Minnesota Statutes 2006, section 297A.69, subdivision 4, is amended to read:

Subd. 4. **Machinery, equipment, and fencing.** The following machinery, equipment, and fencing is exempt:

(1) farm machinery;

(2) logging equipment, including chain saws used for commercial logging;

(3) fencing and fencing materials used for the containment of ~~farmed cervidae, as defined in section 35.153, subdivision 3~~ livestock as defined in section 17A.03, subdivision 5;

(4) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, aquacultural production equipment, or logging equipment, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products; and

(5) aquaculture production equipment.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2008.