A bill for an act

relating to income tax; establishing the Minnesota Land Conservation Incentives Act of 2007; providing a credit for certain land donations; proposing coding for new law in Minnesota Statutes, chapters 84; 290.

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

Section 1. **[84.635] MINNESOTA LAND CONSERVATION INCENTIVES ACT.**

Subdivision 1. **Citation.** This section may be cited as the "Minnesota Land Conservation Incentives Act of 2007."

Subd. 2. **Purpose and findings.** (a) The legislature finds that Minnesota's unique natural resources are of significant benefit to the state and the public.

(b) The legislature finds that the state of Minnesota's unique natural resources and distinctive natural heritage, including habitat for plants, animals, and natural communities, are being lost at an alarming rate.

(c) The legislature finds that much of Minnesota's unique natural resources and habitats are found on lands which are privately owned.

(d) The legislature shall provide private landowners with incentives to encourage protection of private lands for natural resources, biodiversity conservation, and outdoor recreation purposes.

Subd. 3. **Definitions.** For the purposes of this section, the following terms have the meanings given.

(a) "Interest in real property" means any right in real property including: a fee simple; access to property; improvements on a property; an easement; a conservation easement, provided such interest complies with the requirements of section 170(h) of the

Internal Revenue Code; a partial interest; mineral rights; a remainder or future interest; or other interest or right in real property that can be legally conveyed.

(b) "Public or private conservation agency" means any governmental body, or any private not-for-profit charitable corporation or trust authorized to do business in Minnesota and organized and operated for natural resources or land conservation purposes, and having tax-exempt status as a public charity under the Internal Revenue Code of 1986, as amended, and having the power to acquire, hold, and maintain real property and interests in real property for such purposes.

(c) "Eligible taxpayer" means a taxpayer who:

(1) donates an interest in real property to a public or private conservation agency;

(2) has the donation approved for a tax credit under subdivision 5, clause (1); and

(3) has been granted a certificate for the tax credit under subdivision 5, clause (2).

Subd. 4. **Tax credit.** (a) An eligible taxpayer may take a credit under section 290.0678 against the tax due under chapter 290 for an amount equal to up to 50 percent of the fair market value of any donation of an interest in real property located in Minnesota which satisfies the requirements and purposes of this section.

(b) The conveyance of an interest in real property must be an unconditional donation in perpetuity by the taxpayer for the purpose of natural resource or biodiversity conservation to a public or private conservation agency eligible to hold such land for conservation or preservation purposes.

(c) The fair market value of qualified donations made under this section shall be substantiated by a qualified appraisal prepared by a qualified appraiser, as those terms are defined under applicable federal law and regulations governing charitable contributions.

(d) A taxpayer must establish eligibility and receive a land conservation credit tax certificate from the commissioner in order to receive the credit.

(e) The maximum statewide credit amount is $2,000,000 for each taxable year.

Subd. 5. **Duties.** The commissioner shall:

(1) approve donations of an interest in real property to a public or private conservation agency for a tax credit under this section and section 290.0678;

(2) determine criteria and priorities for awarding certificates for the tax credit, in accordance with section 290.0678, to taxpayers approved for the tax credit under clause (1);

(3) provide a certificate to taxpayers who qualify under clause (1) and are granted the credit under clause (2), notifying the taxpayer of the taxpayer's eligibility to take the credit under 290.0678, of the amount of tax credit the taxpayer has been awarded, and

that the taxpayer must submit the certificate with the taxpayer's returns in order to claim the credit; and

(4) not award more than a total of $2,000,000 worth in tax credit certificates per year.

Subd. 6. **Authorizing rulemaking; requiring report.** (a) The commissioner of natural resources shall adopt such rules as may be deemed necessary to implement a tax incentive program to award tax certificates under this section. The commissioner, upon the five-year anniversary of the enactment of this section or any renewals thereof shall prepare a report to the legislature showing the lands protected during such period under this section.

(b) The Department of Revenue in consultation with the commissioner may adopt rules necessary to administer the tax incentives provided for in this section and shall coordinate with the agencies referenced in subdivision 3, paragraph (c), in the preparation of the report to the legislature showing the fiscal impact on Minnesota of the credits claimed under this section.

Subd. 7. **Construction.** No part of this section shall be interpreted to alter or amend any permit requirements, reporting requirements, allocation procedures, or other requirements set forth in any other provision of state law.

Sec. 2. **[290.0678] LAND CONSERVATION CREDIT.**

Subdivision 1. **Credit allowed.** (a) A taxpayer is allowed a credit against the tax imposed by this chapter for qualified donations of real property for land conservation purposes if the requirements under section 84.635 and this section are satisfied.

(b) For the purposes of this section, "qualified donations" means the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, provided that such less-than-fee interest qualifies as a charitable contribution deduction under section 170(h) of the Internal Revenue Code of 1986. Dedication of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations for the purposes of this credit.

(c) To be eligible for treatment as qualified donations under this section, donations of land, or interests in lands, must be determined by the commissioner of natural resources to fulfill the purposes set forth in section 84.635, subdivision 2.

(d) The credit may be claimed only after approval and certification by the commissioner of natural resources under section 84.635.

Subd. 2. **Process.** To claim the credit, the taxpayer must apply to the Department of Natural Resources. The commissioner of natural resources shall issue certificates verifying eligibility for and the amount of the credit. The taxpayer shall attach the certificate to any tax return on which the credit is claimed.

Subd. 3. **Credit limitations.** (a) The amount of the credit that may be claimed by a taxpayer shall not exceed $100,000.

(b) The credit is limited to the liability for tax, as computed under this chapter for the taxable year. If the amount of the credit determined under this section for any taxable year exceeds this limitation, the excess is a land conservation credit carryover to each of the 20 succeeding taxable years. The entire amount of the excess unused credit for the taxable year is carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this paragraph shall not exceed the taxpayer's liability for tax less the land conservation credit for the taxable year.

(c) The tax credits provided by this section shall apply to donations of land in taxable years beginning after December 31, 2007.

(d) Any taxpayer claiming a tax credit under this section may not claim a credit under any similar law for the same donation.

(e) Any tax credits which arise under this section from the donation of land made by a pass-through tax entity such as a trust, estate, partnership, limited liability corporation, limited partnership, subchapter S corporation, or other fiduciary shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, manager, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, manager, partner, shareholder, or beneficiary for the same donation.

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