

recreation area; extending the availability of a previous appropriation; providing exemptions from hunting restrictions in certain areas.

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

Section 1. ADDITION TO IRON RANGE OFF-HIGHWAY VEHICLE RECREATION AREA.

[85.013] [Subd. 12a.] IRON RANGE OFF-HIGHWAY VEHICLE RECREATION AREA, ST. LOUIS COUNTY. The following areas are added to the Iron Range off-highway vehicle recreation area, all in Township 58 North, Range 17 West, St. Louis county:

(1) the West Half of the Northeast Quarter; and the West Half of the Southeast Quarter in Section 14; and

(2) the West Half of the Northeast Quarter in Section 23, lying north of the Mesabi Trail.

Sec. 2. APPROPRIATION EXTENSION.

Notwithstanding Laws 1998, chapter 401, section 4, the appropriations in Laws 1996, chapter 407, section 3, for the Iron Range off-highway vehicle recreation area are available until expended.

Sec. 3. EXEMPTIONS FROM HUNTING RESTRICTIONS.

(a) Hunting is permitted in accordance with state law and local government regulations in:

(1) the off-highway vehicle recreation area established under Laws 1996, chapter 407, section 32, and Laws 1999, chapter 231, section 99; and

(2) the state recreation area established under Laws 1993, chapter 172, section 34.

(b) The commissioner of natural resources shall amend any rules that do not conform with this section.

Presented to the governor April 11, 2000

Signed by the governor April 14, 2000, 2:10 p.m.

CHAPTER 394—S.F.No. 2655

An act relating to taxation; recodifying insurance tax laws; providing for civil and criminal penalties; appropriating money; amending Minnesota Statutes 1998, sections 43A.316, subdivision 9; 43A.317, subdivision 8; 60A.19, subdivision 8; 60A.198, subdivision 3; 60A.208, subdivision 8; 60A.209, subdivision 3; 60C.17; 60E.04, subdivision 4; 60E.095; 61B.30, subdivision 1; 62C.01, subdivision 3; 62E.10, subdivision 1; 62E.13, subdivision 10; 62L.13, subdivision 3; 62T.10; 64B.24; 71A.04, subdivision 1; 79.252, subdivision 4; 79.34, subdivision 1a; 176A.08; 290.35, subdivisions 2, 3, and 6; 295.58; and 424.165; Minnesota Statutes 1999

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Supplement, sections 43A.23, subdivision 1; and 60A.19, subdivision 6; proposing coding for new law as Minnesota Statutes, chapter 297I; repealing Minnesota Statutes 1998, sections 60A.15; 60A.152; 60A.198, subdivision 6; 60A.199, subdivisions 2, 3, 4, 5, 6, 6a, 7, 8, 9, 10, and 11; 60A.209, subdivisions 4 and 5; 69.54; 69.55; 69.56; 69.57; 69.58; 69.59; 69.60; 69.61; 71A.04, subdivision 2; 299F.21; 299F.22; 299F.23; 299F.24; 299F.25; and 299F.26; Minnesota Rules, part 2765.1500, subpart 6.

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

ARTICLE 1

INSURANCE TAX RECODIFICATION

Section 1. [297I.01] DEFINITIONS.

Subdivision 1. **TERMS.** Unless the language or context clearly indicates that a different meaning is intended, for the purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **ASSOCIATION OR ASSOCIATIONS.** "Association" or "associations" has the meaning given in section 60A.02, subdivision 1a.

Subd. 3. **COMMISSIONER.** "Commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 4. **COMMUNITY INTEGRATED SERVICE NETWORK.** "Community integrated service network" has the meaning given in section 62N.02, subdivision 4a.

Subd. 5. **COMPANY OR INSURANCE COMPANY.** "Company" or "insurance company" has the meaning given in section 60A.02, subdivision 4.

Subd. 6. **DEPARTMENT OF REVENUE.** "Department of revenue" means the Minnesota department of revenue or commissioner of revenue.

Subd. 7. **DOMESTIC.** "Domestic" has the meaning given in section 60A.02, subdivision 5.

Subd. 8. **FOREIGN.** "Foreign" has the meaning given in section 60A.02, subdivision 6.

Subd. 9. **GROSS PREMIUMS.** "Gross premiums" means total premiums paid by policyholders and applicants of policies, whether received in the form of money or other valuable consideration, on property, persons, lives, interests and other risks located, resident, or to be performed in this state, but excluding consideration and premiums for reinsurance assumed from other insurance companies. The term "gross premiums" includes the total consideration paid to bail bond agents for bail bonds. For title insurance companies, "gross premiums" means the charge for title insurance made by a title insurance company or its agents according to the company's rate filing

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approved by the commissioner of commerce without a deduction for commissions paid to or retained by the agent. Gross premiums of a title insurance company does not include any other charge or fee for abstracting, searching, or examining the title, or escrow, closing, or other related services.

Subd. 10. HEALTH MAINTENANCE ORGANIZATION. “Health maintenance organization” has the meaning given in section 62D.02, subdivision 4.

Subd. 11. NONPROFIT HEALTH SERVICE PLAN CORPORATION. “Non-profit health service plan corporation” has the meaning given in section 62C.02, subdivision 6.

Subd. 12. INSURANCE. “Insurance” means the same as that term is defined in section 60A.02, subdivision 3.

Subd. 13. INSURANCE AGENT OR INSURANCE AGENCY. “Insurance agent or insurance agency” has the meaning given in section 60A.02, subdivision 7.

Subd. 14. RETURN PREMIUMS DEFINED. “Return premiums” means any dividend or any unused or unabsorbed portion of premium deposit or assessment that is applied toward the payment of any premium, premium deposit, or assessment due from the policyholder or member upon a continuance or renewal of the insurance on account of which the dividend was earned or premium deposit or assessment paid. Return premiums also includes any portion of premium returned by the company upon cancellation or termination of a policy or membership, except surrender values paid upon the cancellation and surrender of policies or certificates of life insurance.

Subd. 15. STATE. “State” has the meaning given in section 60A.02, subdivision 18.

Subd. 16. TAXPAYER. “Taxpayer” means any insurance company, association, surplus lines licensee, automobile risk self-insurer, or insured or any other person or entity required to pay any amount due under this chapter.

Sec. 2. [297I.05] TAX IMPOSED.

Subdivision 1. DOMESTIC AND FOREIGN COMPANIES. Except as otherwise provided in this section, a tax is imposed on every domestic and foreign insurance company. The rate of tax is equal to two percent of all gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.

Subd. 2. TOWN AND FARMERS' MUTUAL INSURANCE. A tax is imposed on town and farmers' mutual insurance companies. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.

Subd. 3. MUTUAL PROPERTY AND CASUALTY COMPANIES WITH ASSETS OF \$5,000,000 OR LESS AT THE END OF THE CALENDAR YEAR. A tax is imposed on mutual property and casualty companies with assets of \$5,000,000 or less at the end of the calendar year. The rate of tax is equal to one percent of gross

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premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.

Subd. 4. MUTUAL PROPERTY AND CASUALTY COMPANIES WITH TOTAL ASSETS LESS THAN \$1,600,000,000 ON DECEMBER 31, 1989. A tax is imposed on mutual property and casualty companies that had total assets greater than \$5,000,000 at the end of the calendar year but that had total assets less than \$1,600,000,000 on December 31, 1989. The rate of tax is equal to:

(1) two percent of gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota for life insurance, in cash or otherwise, during the year; and

(2) 1.26 percent of gross premiums less return premiums on all other direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.

Subd. 5. HEALTH MAINTENANCE ORGANIZATIONS, NONPROFIT HEALTH SERVICE PLAN CORPORATIONS, AND COMMUNITY INTEGRATED SERVICE NETWORKS. (a) The commissioner of finance shall determine the balance of the health care access fund on September 1 of each year.

(b) If the commissioner of finance determines that there will not be a structural deficit for the next state fiscal year, no tax is imposed under this chapter on health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks for the following calendar year.

(c) If the commissioner of finance determines that there will be a structural deficit in the fund for the next state fiscal year, then the commissioner of finance, in consultation with the commissioner of revenue, shall determine the amount needed to eliminate the structural deficit, and a tax is imposed for the next calendar year. The rate of tax is a percentage of gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year. The percentage rate is one-quarter of one percent, one-half of one percent, three-quarters of one percent, or one percent of the premiums, whichever is the lowest rate that will produce sufficient revenue to eliminate the projected structural deficit.

(d) The commissioner of finance shall publish in the State Register by October 1 of each year the rate of tax to be imposed for the following calendar year.

(e) In determining the structural balance of the health care access fund for fiscal year 2001, the commissioner of finance shall disregard the transfer amount from the health care access fund to the general fund for expenditures associated with the services provided to pregnant women and children under the age of two enrolled in the MinnesotaCare program.

(f) In approving the premium rates as required in sections 62L.08, subdivision 8, and 62A.65, subdivision 3, the commissioners of health and commerce shall ensure that to the extent that the tax imposed under this subdivision is less than one percent

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of gross premiums less return premiums, the premium rate reflects the difference between the amount of tax imposed and the amount that would have been collected if the rate was one percent.

(g) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

Subd. 6. FIRE MARSHAL TAX. A tax is imposed on every licensed company, including reciprocals or interinsurance exchanges, doing business in this state, except farmers' mutual fire insurance companies and township fire insurance companies. The rate of tax is equal to one-half of one percent of the gross fire premiums and assessments, less return premiums, on all direct business received by the company in this state, or by its agents for it, in cash or otherwise, during the year. "Gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise.

Subd. 7. SURPLUS LINES TAX. (a) A tax is imposed on surplus lines licensees. The rate of tax is equal to three percent of the gross premiums less return premiums received by the licensee minus any licensee association operating assessments paid under section 60A.208.

(b) If surplus lines insurance placed by a surplus lines licensee and taxed under this subdivision covers a subject of insurance residing, located, or to be performed outside this state, a proper pro rata portion of the entire premium payable for all of that insurance must be allocated according to the subjects of insurance residing, located, or to be performed in this state.

Subd. 8. INSURANCE PREMIUM TAX EQUIVALENT PAYMENT BY AUTOMOBILE RISK SELF-INSURERS. (a) The following terms, for the purposes of this subdivision, have the meanings given them.

(1) "Automobile risks" means the risk of providing no-fault insurance under sections 65B.41 to 65B.71.

(2) "Motor vehicle" has the meaning given in section 65B.43, subdivision 2.

(3) "Person" means an owner, as defined in section 65B.43, subdivision 4, but does not include the state or a political subdivision as defined in section 65B.43, subdivision 20.

(4) "Self-insurance" means the condition of qualifying as a self-insurer by complying with section 65B.48, subdivisions 3 and 3a.

(5) "Self-insurer" means a person who has arranged self-insurance for the automobile risks associated with the person's motor vehicle.

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(b) Every self-insurer who owns, leases, or operates a motor vehicle required to be registered or licensed in this state or principally garaged in this state for at least two months in the calendar year shall pay an annual amount for each vehicle of:

(1) \$15 for a private passenger vehicle as defined in section 65B.001, subdivision 3, or a utility vehicle as defined in section 65B.001, subdivision 4, not including a taxi; or

(2) \$25 for a taxi or any other self-insured vehicle not covered by clause (1).

(c) A self-insurer who is more than six months delinquent in paying the amount due under this subdivision must be referred by the commissioner to the commissioner of commerce for action. That action may include revocation of the self-insured's self-insurer status.

(d) The amount paid under this subdivision must be deposited into the general fund to the credit of the account from which the police state aid provided for in sections 69.011 to 69.051 is payable.

Subd. 9. TAX ON PERSONS, FIRMS, OR CORPORATIONS LICENSED TO PROCURE INSURANCE FROM UNLICENSED FOREIGN COMPANIES.

(a) A tax is imposed on any person, firm, or corporation licensed under section 60A.19, subdivision 8. The rate of tax is equal to two percent of gross premiums paid in the year less return premiums received in the year.

(b)(1) Money collected under this subdivision must be paid to a municipality or a fire department relief association if:

(i) the money is attributable to fire, lightning, or sprinkler insurance premiums paid by an owner to insure property; and

(ii) the property is in a municipality that has an organized fire department, a partly paid fire department, or a volunteer fire department.

The money must be paid to the municipality where the insured property is located, or to the municipality's fire department relief association. The money to be paid includes penalties and interest collected because a property owner failed to pay on time the taxes due under this subdivision.

(2) This paragraph does not apply to taxes paid under this subdivision that are attributable to premiums paid on property if:

(i) the property is owned and occupied exclusively as a homestead, and the owner carries insurance on the property; or

(ii) the property is exempt under section 550.37 and the owner carries insurance on the property.

Subd. 10. TAX ON PERSONS, FIRMS, OR CORPORATIONS PROCURING INSURANCE FROM AN INELIGIBLE COMPANY. (a) A tax is imposed on each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who

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procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or 60A.209, subdivision 1, equal to two percent of gross premiums less return premiums paid for such insurance.

(b) If the insurance described in paragraph (a) also covers a subject of insurance residing, located, or to be performed outside this state, for the purposes of this subdivision, a proper pro rata portion of the entire premium payable for all of that insurance must be allocated according to the subjects of insurance residing, located, or to be performed in this state.

(c) For the purposes of this subdivision, insurance placed with an ineligible surplus lines insurer is considered to be procured, continued, or renewed in this state if:

(1) it was procured through negotiations occurring in whole or in part within or from outside this state;

(2) it was procured by an application made in whole or in part within or from outside this state; or

(3) premiums for it are paid from within this state directly or indirectly, in whole or in part.

Subd. 11. RETALIATORY PROVISIONS. (a) If any other state or country imposes any taxes, fines, deposits, penalties, licenses, or fees upon any insurance companies of this state and their agents doing business in another state or country that are in addition to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents doing business in this state, the same taxes, fines, deposits, penalties, licenses, and fees are imposed upon every similar insurance company of that state or country and their agents doing or applying to do business in this state.

(b) If any conditions precedent to the right to do business in any other state or country are imposed by the laws of that state or country, beyond those imposed upon foreign companies by the laws of this state, the same conditions precedent are imposed upon every similar insurance company of that state or country and their agents doing or applying to do business in that state.

(c) For purposes of this subdivision, "taxes, fines, deposits, penalties, licenses, or fees" means an amount of money that is deposited in the general revenue fund of the state or other similar fund in another state or country and is not dedicated to a special purpose or use or money deposited in the general revenue fund of the state or other similar fund in another state or country and appropriated to the commissioner of commerce or insurance for the operation of the department of commerce or other similar agency with jurisdiction over insurance. Taxes, fines, deposits, penalties, licenses, or fees do not include:

(1) special purpose obligations or assessments imposed in connection with particular kinds of insurance, including but not limited to assessments imposed in

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connection with residual market mechanisms; or

(2) assessments made by the insurance guaranty association, life and health guarantee association, or similar association.

(d) This subdivision applies to taxes imposed under subdivisions 1, 3, 4, 6, and 12, paragraph (a), clauses (1) and (3).

(e) This subdivision does not apply to insurance companies organized or domiciled in a state or country, the laws of which do not impose retaliatory taxes, fines, deposits, penalties, licenses, or fees or which grant, on a reciprocal basis, exemptions from retaliatory taxes, fines, deposits, penalties, licenses, or fees to insurance companies domiciled in this state.

Subd. 12. OTHER ENTITIES. (a) A tax is imposed equal to two percent of:

(1) gross premiums less return premiums written for risks resident or located in Minnesota by a risk retention group;

(2) gross premiums less return premiums received by an attorney in fact acting in accordance with chapter 71A;

(3) gross premiums less return premiums received pursuant to assigned risk policies and contracts of coverage under chapter 79;

(4) the direct funded premium received by the reinsurance association under section 79.34 from self-insurers approved under section 176.181 and political subdivisions that self-insure;

(5) gross premiums less return premiums received by a nonprofit health service plan corporation authorized under chapter 62C; and

(6) gross premiums less return premiums paid to an insurer other than a licensed insurance company or a surplus lines licensee for coverage of risks resident or located in Minnesota by a purchasing group or any members of the purchasing group to a broker or agent for the purchasing group.

(b) A tax is imposed on the state fund mutual insurance company established under chapter 176A. The tax must be computed in the same manner as mutual insurance companies under subdivisions 1, 3, and 4.

(c) A tax is imposed on a joint self-insurance plan operating under chapter 60F. The rate of tax is equal to two percent of the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through stop-loss insurance.

(d) A tax is imposed on a joint self-insurance plan operating under chapter 62H. The rate of tax is equal to two percent of the total amount of claims paid during the fund's fiscal year, with no deduction for claims wholly or partially reimbursed through stop-loss insurance.

(e) A tax is imposed equal to the tax imposed under section 297I.05, subdivision 5, on the gross premiums less return premiums on all coverages received by an

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accountable provider network or agents of an accountable provider network in Minnesota, in cash or otherwise, during the year.

Subd. 13. FUNDS DEPOSITED INTO GENERAL FUND. Unless otherwise specified in this chapter, all amounts collected by the commissioner under this chapter must be deposited in the general fund.

Sec. 3. [2971.10] SURCHARGE ON PREMIUMS TO RESTORE DEFICIENCY IN SPECIAL FUND.

Subdivision 1. CITIES OF THE FIRST CLASS. (a) The commissioner shall order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any licensed foreign or domestic fire insurance company on property in a city of the first class, or by its agents for it, in cash or otherwise.

(b) By July 31 and December 31 of each year the commissioner of finance shall pay to the relief association in each city a warrant for an amount equal to the total amount of the surcharge on the premiums collected within the city since the previous payment.

(c) The treasurer of the relief association shall place the money received under this subdivision in the special fund of the relief association.

Subd. 2. CITY OF THE SECOND CLASS. (a) Upon receiving certification from a city of the second class pursuant to section 424.165, the commissioner shall direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance company on property in such city of the second class, or by its agents for it, in cash or otherwise.

(b) The board of trustees of a firefighter's relief association of the city of the second class that has sent certification to the commissioner under paragraph (a) must notify the commissioner as soon as the balance in their special fund equals \$50,000. Upon receiving notice from the association, the commissioner shall notify the insurers subject to the surcharge that the surcharge is discontinued effective 15 days after the balance reached \$50,000.

(c) By September 1 and March 1 of each year, the commissioner of finance shall pay to the firefighter's relief association of each city of the second class a warrant for an amount equal to the total amount of the surcharge on the premiums collected within the city since the previous payment.

(d) The treasurer of the firefighter's relief association shall place the money received under this subdivision in the special fund of the relief association.

Subd. 3. APPROPRIATION. The amount necessary to make the payments required under this section is appropriated to the commissioner of finance from the general fund.

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Sec. 4. [297L.15] EXEMPTIONS FROM TAX.

Subdivision 1. GOVERNMENT PAYMENTS. Premiums under medical assistance, general assistance medical care, the MinnesotaCare program, and the Minnesota comprehensive health insurance plan and all payments, revenues, and reimbursements received from the federal government for medicare-related coverage as defined in section 62A.31, subdivision 3, are not subject to tax under this chapter.

Subd. 2. MINNESOTA EMPLOYEES INSURANCE PROGRAM. To the extent that the Minnesota employees insurance program under section 43A.317 operates as a self-insured group, the premiums paid to the program are exempt from the taxes imposed under this chapter, but are subject to a Minnesota comprehensive health association assessment under section 62E.11.

Subd. 3. PUBLIC EMPLOYEES INSURANCE PROGRAM. Premiums paid to the public employees insurance program under section 43A.316 are exempt from the taxes imposed under this chapter.

Subd. 4. PREMIUMS PAID TO HEALTH CARRIERS BY STATE. A health carrier as defined in section 62A.011 is exempt from the taxes imposed under this chapter on premiums paid to it by the state.

Subd. 5. MINNESOTA INSURANCE GUARANTY ASSOCIATION. The Minnesota insurance guaranty association under chapter 60C is exempt from the taxes imposed under this chapter.

Subd. 6. MINNESOTA LIFE AND HEALTH GUARANTY ASSOCIATION. The Minnesota life and health guaranty association under chapter 61B is exempt from the taxes imposed under this chapter.

Subd. 7. MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION. The Minnesota comprehensive health association under chapter 62E is exempt from the taxes imposed under this chapter.

Subd. 8. WRITING CARRIER FOR THE COMPREHENSIVE HEALTH INSURANCE PLAN. Premiums received by the writing carrier for the comprehensive health insurance plan established under section 62E.10 in connection with that plan are exempt from the taxes imposed under this chapter.

Subd. 9. HEALTH COVERAGE REINSURANCE ASSOCIATION. The health coverage reinsurance association under chapter 62L is exempt from the taxes imposed under this chapter.

Subd. 10. PREMIUMS PAID TO FRATERNAL BENEFIT SOCIETIES. Premiums paid to fraternal benefit societies pursuant to chapter 64B are exempt from the taxes imposed under this chapter.

Sec. 5. [297L.20] GUARANTY ASSOCIATION ASSESSMENT OFFSET.

(a) An insurance company may offset against its premium tax liability to this state any amount paid for assessments made for insolvencies which occur after July 31, 1994, under sections 60C.01 to 60C.22; and any amount paid for assessments made after July 31, 1994, under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or

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under sections 61B.18 to 61B.32 as follows:

(1) Each such assessment shall give rise to an amount of offset equal to 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(2) The amount of offset initially determined for each taxable year is the sum of the amounts determined under clause (1) for that taxable year.

(b)(1) Each year the commissioner shall compare total guaranty association assessments levied over the preceding five calendar years to the sum of all premium tax and corporate franchise tax revenues collected from insurance companies, without reduction for any guaranty association assessment offset in the preceding calendar year, referred to in this subdivision as "preceding year insurance tax revenues."

(2) If total guaranty association assessments levied over the preceding five years exceed the preceding year insurance tax revenues, insurance companies must be allowed only a proportionate part of the premium tax offset calculated under paragraph (a) for the current calendar year.

(3) The proportionate part of the premium tax offset allowed in the current calendar year is determined by multiplying the amount calculated under paragraph (a) by a fraction. The numerator of the fraction equals the preceding year insurance tax revenues, and its denominator equals total guaranty association assessments levied over the preceding five-year period.

(4) The proportionate part of the premium tax offset that is not allowed must be carried forward to subsequent tax years and added to the amount of premium tax offset calculated under paragraph (a) prior to application of the limitation imposed by this paragraph.

(5) Any amount carried forward from prior years must be allowed before allowance of the offset for the current year calculated under paragraph (a).

(6) The premium tax offset limitation must be calculated separately for (i) insurance companies subject to assessment under sections 60C.01 to 60C.22, and (ii) insurance companies subject to assessment under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or 61B.18 to 61B.32.

(7) When the premium tax offset is limited by this provision, the commissioner shall notify affected insurance companies on a timely basis for purposes of completing premium and corporate franchise tax returns.

(8) The guaranty associations created under sections 60C.01 to 60C.22, Minnesota Statutes 1992, sections 61B.01 to 61B.16, and 61B.18 to 61B.32, shall provide the commissioner with the necessary information on guaranty association assessments.

(c)(1) If the offset determined by the application of paragraphs (a) and (b) exceeds the greater of the insurance company's premium tax liability under this section or its corporate franchise tax liability under chapter 290 prior to allowance of the credit for premium taxes, then the insurance company may carry forward the excess, referred to

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in this subdivision as the "carryforward credit" to subsequent taxable years.

(2) The carryforward credit is allowed as an offset against premium tax liability for the first succeeding year to the extent that the premium tax liability for that year exceeds the amount of the allowable offset for the year determined under paragraphs (a) and (b).

(3) The carryforward credit must be reduced, but not below zero, by the greater of the amount of the carryforward credit allowed as an offset against the premium tax under this paragraph or the amount of the carryforward credit allowed as an offset against the insurance company's corporate franchise tax liability under section 290.35, subdivision 6, paragraph (d). The remainder, if any, of the carryforward credit must be carried forward to succeeding taxable years until the entire carryforward credit has been credited against the insurance company's liability for premium tax under this chapter and corporate franchise tax under chapter 290 if applicable for that taxable year.

(d) When an insurer has offset against taxes its payment of an assessment of the Minnesota life and health guaranty association, and the association pays the insurer a refund with respect to the assessment under Minnesota Statutes 1992, section 61B.07, subdivision 6, or 61B.24, subdivision 6, then the refund reduces the insurer's carryforward credit under paragraph (c). If the refund exceeds the amount of the carryforward credit, the excess amount must be repaid to the state by the insurers to the extent of the offset in the manner the commissioner requires.

Sec. 6. [297I.25] INFORMATION RETURNS.

Subdivision 1. LICENSED BROKERS OR AGENTS OF RISK RETENTION GROUPS. To the extent licensed agents or brokers are utilized in accordance with section 60E.12, they shall report to the commissioner the premiums received for direct business for risks resident or located within this state which the licensees have placed with or on behalf of a risk retention group not chartered in this state.

Subd. 2. FIRETOWN AND POLICE PREMIUM REPORTS. To the extent required by section 69.021, each insurer shall file with the commissioner a Minnesota firetown premium report and Minnesota aid to police premium report.

Sec. 7. [297I.30] DUE DATES FOR FILING RETURNS.

Subdivision 1. GENERAL RULE. On or before March 1, every insurer subject to taxation under section 297I.05, subdivisions 1 to 6, and 12, paragraphs (a), clauses (1) to (5), (b), and (e), shall file an annual return for the preceding calendar year setting forth such information as the commissioner may reasonably require on forms prescribed by the commissioner.

Subd. 2. SURPLUS LINES LICENSEES AND PURCHASING GROUPS. On or before February 15 and August 15 of each year, every surplus lines licensee subject to taxation under section 297I.05, subdivision 7, and every purchasing group or member of a purchasing group subject to tax under section 297I.05, subdivision 12, paragraph (a), clause (6), shall file a return with the commissioner for the preceding

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six-month period ending December 31, or June 30, setting forth any information the commissioner reasonably prescribes on forms prescribed by the commissioner.

Subd. 3. AUTOMOBILE RISK SELF-INSURERS. On or before July 1 of each year, every self-insurer subject to taxation under section 297I.05, subdivision 8, shall file a return with the commissioner for the preceding calendar year setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

Subd. 4. PERSONS, FIRMS, OR CORPORATIONS LICENSED TO PROCURE INSURANCE FROM UNLICENSED FOREIGN COMPANIES. On or before 30 days following the expiration date of a license issued under section 297I.05, subdivision 9, a person, firm, or corporation licensed to obtain insurance from a company not authorized to do business in Minnesota shall file a return with the commissioner for the preceding 12-month period setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

Subd. 5. JOINT SELF-INSURANCE PLANS. On or before 60 days following the conclusion of their fiscal year, a plan subject to tax under 297I.05, subdivision 12, paragraph (c) or (d), shall file a return with the commissioner for the preceding fiscal year setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

Subd. 6. PERSONS, FIRMS, OR CORPORATIONS PROCURING INSURANCE FROM AN UNLICENSED FOREIGN COMPANY. Within 30 days after the date the insurance was procured, continued, or renewed, a taxpayer required to pay the tax under section 297I.05, subdivision 10, shall file a return setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

Subd. 7. SURCHARGE. (a)(1) By April 30 of each year, every company required to pay the surcharge under section 297I.10, subdivision 1, shall file a return for the five-month period ending March 31 setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

(2) By June 30 of each year, every company required to pay the surcharge under section 297I.10, subdivision 1, shall file a return for the two-month period ending May 31 setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

(3) By November 30 of each year, every company required to pay the surcharge under section 297I.10, subdivision 1, shall file a return for the five-month period ending October 31 setting forth any information the commissioner reasonably requires on forms prescribed by the commissioner.

(b) By February 15 and August 15 of each year, every company required to pay a surcharge under section 297I.10, subdivision 2, must file a return for the preceding six-month period ending December 31 and June 30.

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Sec. 8. [297I.35] PAYMENT OF TAX.

Subdivision 1. GENERAL RULE. All taxes and surcharges imposed under this chapter must be paid to the commissioner by the date that the return must be filed under section 297I.30.

Subd. 2. ELECTRONIC FUNDS TRANSFER. If the aggregate amount of tax and surcharges due under this chapter during a calendar year is equal to or exceeds \$120,000, or if the taxpayer is required to make payment of any other tax to the commissioner by means of electronic funds transfer as defined in section 336.4A-104, paragraph (a), then all tax and surcharge payments in the subsequent calendar year must be paid by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-104, must be on or before the date the payment is due. If the date the payment is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the payment is due.

Sec. 9. [297I.40] ESTIMATED TAX.

Subdivision 1. REQUIREMENT TO PAY. On or before April 1, June 1, and December 1 of each year, every taxpayer subject to tax under section 297I.05, subdivisions 1 to 6, and 12, paragraphs (a), clauses (1) to (5), (b), and (e), must pay to the commissioner an installment equal to one-third of the insurer's total estimated tax for the current year.

Subd. 2. AMOUNT OF REQUIRED INSTALLMENT. The amount of any required installment is one-third of the lesser of

- (1) 80 percent of the tax imposed for the current year, or
- (2) 100 percent of the tax paid for the previous year.

Subd. 3. NO ADDITION TO TAX WHERE THE TAX IS SMALL. No addition to tax is imposed if the total tax for the current tax year is \$500 or less.

Subd. 4. ADDITION TO TAX. (a) In case of any underpayment of installments by an insurer, there is added to, and collected as part of, the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

(b) The amount of the underpayment is the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) The period of the underpayment runs from the date the installment was required to be paid to the earlier of:

- (1) March 1 of the year following the close of the taxable year; or
- (2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any previous underpayment only to the

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extent the payment exceeds the amount of the installment required to be made on that date.

Subd. 5. DEFINITION OF TAX. The term "tax" as used in this section means the tax imposed by section 297I.05, subdivisions 1 to 6, and 12, paragraphs (a), clauses (1) to (5), (b), and (e), without regard to the retaliatory provisions of section 297I.05, subdivision 11, and the offset in section 297I.20.

Subd. 6. FAILURE TO PAY ESTIMATED TAX. When an insurer does not make any payments, the period of the underpayment runs from the three installment dates set forth in subdivision 1 to whichever of the periods in subdivision 4, paragraph (c), is the earlier.

Subd. 7. APRIL ESTIMATED PAYMENT. A taxpayer who claims a refund of an overpayment on an original return may elect to have all or any portion of the overpayment applied as a credit to the April 1 estimated tax payment for the year following the year of the return. The credit is considered applied on April 1. Notwithstanding section 297I.80, the amount credited does not bear interest.

Sec. 10. [297I.45] ASSESSMENTS.

The commissioner shall make determinations, corrections, and assessments with respect to taxes and surcharges, including interest, additions to tax, and penalties. To determine the accuracy of a return, or in fixing liability for a tax or surcharge, the commissioner may make reasonable examinations or investigations of the taxpayer's records and accounts. If a taxpayer fails to file a required return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make a return for the taxpayer.

Sec. 11. [297I.50] ORDER OF ASSESSMENT.

Subdivision 1. ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER. (a) When a return has been filed and the commissioner determines that the tax or surcharge disclosed by the return is different than the tax or surcharge determined by the examination, the commissioner shall send an order of assessment to the taxpayer. When no return has been filed, the commissioner may make a return for the taxpayer under section 297I.45 or may send an order of assessment under this subdivision. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An order of assessment is final when made but may be reconsidered by the commissioner under section 297I.95.

(b) If a tax payment meets the requirements of this paragraph, the penalty under section 297I.85, subdivision 2, is not imposed, and the commissioner may not take any collection action, including the filing of liens under section 270.69.

To meet the requirements, the taxpayer must first file a return for the tax or surcharge type on which the order is based and then pay the amount shown on the order within the following time limits:

(1) If the taxpayer files an administrative appeal under section 297I.95 or a tax court appeal under chapter 271, and if the appeal is based on a constitutional challenge

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to the tax, the payment must be made within 60 days after final determination of the appeal.

(2) If the appeal is not based on a constitutional challenge, the payment must be made when the decision of the tax court is made.

(3) If the taxpayer does not file an appeal, the payment must be made within 60 days after the date the order is mailed to the taxpayer by the commissioner.

Subd. 2. ERRONEOUS REFUNDS. An erroneous refund is considered an underpayment of tax or surcharge on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.

Subd. 3. ASSESSMENT PRESUMED VALID. A return or assessment of tax or surcharge made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing its incorrectness or invalidity in any related action or proceeding.

Subd. 4. AGGREGATE REFUND OR ASSESSMENT. The commissioner, on examining returns of a taxpayer for more than one year or period, may issue one order covering the period under examination that reflects the aggregate refund or additional tax or surcharge due.

Subd. 5. SUFFICIENCY OF NOTICE. An order of assessment, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, is sufficient even if a corporation has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.

Sec. 12. [297I.55] EXAMINATIONS; AUDITS AND COLLECTIONS.

Subdivision 1. EXAMINATION OF TAXPAYER. To determine the accuracy of a return or report, or in fixing liability under this chapter, or for the purpose of collection, the commissioner may make reasonable examinations or investigations of a taxpayer's place of business; tangible personal property; equipment, computer systems and facilities; and pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.

Subd. 2. ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER. When conducting an investigation or an audit of a taxpayer, or for the purpose of collection, the commissioner may, except where privileged by law, examine the relevant records and files of any state agency as well as any person, business, institution, financial institution, agency of the United States government, or agency of any other state where permitted by statute, agreement, or reciprocity. The commissioner may compel production of these records by subpoena. A subpoena may be served directly by the commissioner.

Subd. 3. POWER TO COMPEL TESTIMONY. In the administration of this chapter, the commissioner may:

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(1) administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data for inspection and copying; and

(2) examine under oath or affirmation any person regarding the business of any taxpayer concerning any relevant matter incident to the administration of this chapter. The fees of witnesses required by the commissioner to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law.

Subd. 4. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN. An investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 2 is served on a third-party recordkeeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner.

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records or assets relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

Subd. 5. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN. A subpoena that does not identify the person or persons whose tax or surcharge liability is being investigated may be served only if:

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with laws administered by the commissioner;

(3) the information sought to be obtained from the examination of the records, and the identity of the person or persons with respect to whose liability the subpoena is issued, is not readily available from other sources;

(4) the subpoena is clear and specific concerning the information sought to be obtained; and

(5) the information sought to be obtained is limited solely to the scope of the investigation.

When a subpoena does not identify the person or persons with respect to whose tax or surcharge liability the subpoena is issued, the party served with the subpoena

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may petition for a determination concerning whether the commissioner has complied with clauses (1) to (5) and thus whether the subpoena is enforceable. The petitions must be to the district court in which the party is located. The petition must be filed within 20 days after service of the subpoena. If the party served does not petition within the time prescribed, the subpoena has the effect of a court order.

Subd. 6. REQUEST BY TAXPAYER FOR SUBPOENA. When the commissioner has the power to issue a subpoena for investigative or auditing purposes, the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf, if in connection with the investigation or audit.

Subd. 7. APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA. Disobedience of subpoenas issued under this section is punishable by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court.

Subd. 8. COST OF PRODUCTION OF RECORDS. The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then initiates a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax or surcharge against the taxpayer.

Sec. 13. [297L.60] CLAIMS FOR REFUND.

Subdivision 1. GENERAL RIGHT TO REFUND. (a) Subject to the requirements of this section and section 297L.70, if a taxpayer has paid a tax or surcharge in excess of the amount due and files a written claim for refund, the commissioner shall refund or credit the overpayment determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax or surcharge was paid, the kind of tax or surcharge paid, the amount that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment. The claim must be in the form required by the commissioner. A return or amended return claiming an overpayment constitutes a claim for refund.

(c) The commissioner shall determine the amount of refund, if any, that is due, and notify the taxpayer of the determination as soon as practicable after a claim has been filed. Notice must be mailed to the taxpayer at the address stated upon the return or claim for refund.

(d) If the amount of tax or surcharge paid by the taxpayer exceeds the amount of tax or surcharge imposed on the taxpayer, the amount of excess is considered an overpayment even if in fact there was no liability with respect to which the amount was paid.

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(e) When in the course of an examination and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax or surcharge, the commissioner shall refund or credit the amount of the overpayment to the taxpayer and no return is necessary.

(f) Notwithstanding any law to the contrary, the commissioner is not required to refund or credit any overpayment of less than one dollar.

(g) There is appropriated to the commissioner the amounts necessary to make refunds required by this section. The funds are appropriated from the same fund to which the tax or surcharge being refunded was originally deposited.

Subd. 2. REMEDIES. (a) If the taxpayer is notified that the refund claim is denied in whole or in part, the taxpayer may contest the denial by:

(1) filing an administrative appeal with the commissioner under section 297I.95;

(2) filing an appeal in tax court within 60 days of the date of the notice of denial;
or

(3) filing an action in the district court to recover the refund.

(b) An action in the district court must be brought within 18 months following the date of the notice of denial. An action for refund of tax or surcharge must be brought in the district court of the district in which lies the taxpayer's principal place of business or in the district court for Ramsey county. If a taxpayer files a claim for refund and the commissioner has not issued a denial of the claim, the taxpayer may bring an action in the district court or the tax court at any time after the expiration of six months of the time the claim was filed.

Sec. 14. [297I.65] LIMITATIONS OF TIME FOR ASSESSMENT OF TAX.

Subdivision 1. GENERAL RULE. Except as otherwise provided, the amount of taxes or surcharges assessable must be assessed within three and one-half years after the date the return is filed.

Subd. 2. FILING DATE. For purposes of this section, a return filed before the last day prescribed by law for filing the return is considered to be filed on the last day.

Subd. 3. FALSE OR FRAUDULENT RETURN. Notwithstanding the limitation under subdivision 1, the tax or surcharge may be assessed at any time if a false or fraudulent return is filed or when a taxpayer fails to file a return.

Sec. 15. [297I.70] LIMITATION ON CLAIMS FOR REFUND.

Except as provided in section 297I.75, a claim for refund of an overpayment must be filed within 3-1/2 years from the date prescribed for filing the return, or one year from the date of an order assessing tax or surcharge, or one year from the date of a return filed by the commissioner, upon payment in full of the tax, surcharge, penalties, and interest shown on the order or return made by the commissioner, whichever period expires later. Claims for refund filed after the 3-1/2-year period but within the one-year period are limited to the amount of tax, surcharge, penalties, and interest on the order

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or return made by the commissioner and to issues determined by the order or return made by the commissioner.

Sec. 16. [297I.75] CONSENT TO EXTEND TIME.

If before the expiration of the time prescribed in sections 297I.65 and 297I.70 for the assessment of tax or surcharge or the filing of a claim for refund, the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax or surcharge may be assessed at any time before the expiration of the agreed-upon period and a claim for refund may be paid at any time before the expiration of the agreed-upon period plus six months. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.

Sec. 17. [297I.80] INTEREST.

Subdivision 1. PAYABLE TO THE COMMISSIONER. (a) When interest is required under this section, interest is computed at the rate specified in section 270.75.

(b) If a tax or surcharge is not paid within the time named by law for payment, the unpaid tax or surcharge bears interest from the date the tax or surcharge should have been paid until the date the tax or surcharge is paid.

(c) Whenever a taxpayer is liable for additional tax or surcharge because of a redetermination by the commissioner or other reason, the additional tax or surcharge bears interest from the time the tax or surcharge should have been paid until the date the tax or surcharge is paid.

(d) A penalty bears interest from the date the return or payment was required to be filed or paid to the date of payment of the penalty.

Subd. 2. ON OVERPAYMENTS. (a) When interest is required under this section, interest is computed at the rate specified in section 270.76.

(b) Interest on an overpayment is computed from the date of the payment of the tax or surcharge until the date the refund is made. For purposes of this subdivision, any payment made before the last day prescribed by law to make the payment, including any estimated tax payments, is considered paid on the last day prescribed by law for the payment. A return filed before the due date is considered as filed on the due date.

Sec. 18. [297I.85] CIVIL PENALTIES.

Subdivision 1. LATE FILING PENALTY. If a taxpayer fails to file a return within the time prescribed, a penalty of five percent of the amount of tax or surcharge not timely paid is added to the tax or surcharge.

Subd. 2. LATE PAYMENT PENALTY. If a taxpayer fails to pay a tax or surcharge within the time specified for payment a penalty must be added to the amount required to be shown as tax or surcharge. The penalty is five percent of the tax or surcharge not paid on or before the date specified for payment of the tax or surcharge if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax or surcharge remaining unpaid during each additional 30 days or

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fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

Subd. 3. INTENT TO EVADE. If a taxpayer, with intent to evade the tax or surcharge imposed by this chapter fails to file any return required by this chapter, or with such intent files a false or fraudulent return, a penalty is imposed on the taxpayer. The penalty is equal to 50 percent of the tax or surcharge, less amounts paid by the taxpayer on the basis of the false or fraudulent return and is due for the period to which the return related.

Subd. 4. NEGLIGENCE OR INTENTIONAL DISREGARD; PENALTY. If any part of an additional assessment is due to negligence or intentional disregard of the statute or a rule but without intent to defraud, there is added to the tax or surcharge a penalty equal to ten percent of the additional assessment.

Subd. 5. PAYMENT OF PENALTIES. The penalties imposed by this section must be collected and paid in the same manner as taxes.

Subd. 6. PENALTIES ARE ADDITIONAL. The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

Subd. 7. PENALTY FOR FAILURE TO MAKE PAYMENT BY ELECTRONIC FUNDS TRANSFER. In addition to other applicable penalties imposed by this section, if the commissioner notifies the taxpayer that payments are required to be made by means of electronic funds transfer, and the payments are made by some other means, a penalty is imposed. The amount of the penalty is equal to five percent of each payment that should have been paid electronically. The penalty may be abated under the abatement procedures prescribed in section 270.07, subdivision 6, if the failure to pay electronically is due to reasonable cause.

Sec. 19. [2971.90] CRIMINAL PENALTIES.

Subdivision 1. PENALTIES FOR KNOWING FAILURE TO FILE OR PAY; WILLFUL EVASION. (a) If a person is required to file with the commissioner a return, report, or other document, and that person fails to file it when required and does so knowingly, rather than accidentally, inadvertently, or negligently, that person is guilty of a gross misdemeanor.

(b) If a person is required to file with the commissioner a return, report, or other document, and that person willfully attempts in any manner to evade or defeat a tax or surcharge by failing to file it when required, that person is guilty of a felony.

(c) If a person is required to pay or to collect and remit a tax or surcharge, and that person knowingly, rather than accidentally, inadvertently, or negligently fails to do so when required, that person is guilty of a gross misdemeanor.

(d) If a person is required to pay or to collect and remit a tax or surcharge, and that person willfully attempts to evade or defeat a tax or surcharge by failing to do so when required, that person is guilty of a felony.

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Subd. 2. FALSE OR FRAUDULENT RETURNS; PENALTIES. (a) A person who files with the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Sec. 20. [2971.95] ADMINISTRATIVE APPEALS.

Subdivision 1. TAXPAYER RIGHT TO RECONSIDERATION. A taxpayer may obtain the commissioner's reconsideration of an order assessing tax or surcharge, a denial of a request for abatement of penalty or interest, or a denial of a claim for refund by filing an administrative appeal under subdivision 4. No reconsideration is allowed under this section if the action taken by the commissioner is the outcome of an administrative appeal.

Subd. 2. APPEAL BY TAXPAYER. A taxpayer who wishes to seek administrative review must follow the procedures in subdivision 4.

Subd. 3. NOTICE DATE. For purposes of this section, the term "notice date" means the date of the order adjusting the tax or surcharge or order denying a request for abatement, or, in the case of a denied refund, the date of the notice of denial.

Subd. 4. TIME AND CONTENT FOR ADMINISTRATIVE APPEAL. Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner. The appeal need not be in any particular form but must contain the following information:

- (1) name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or social security number of the taxpayer;
- (4) the type of tax or surcharge involved;
- (5) the date;
- (6) the tax years or periods involved and the amount of tax or surcharge involved for each year or period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. EXTENSIONS. When requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an

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appeal for a period not more than 30 days after the expiration of the 60 days after the notice date.

Subd. 6. DETERMINATION OF APPEAL. Based on applicable law and available information, the commissioner shall determine whether the appeal is valid. The commissioner shall find the appeal valid in whole, valid in part, or invalid, and shall notify the taxpayer of the decision. This notice must be in writing and must state the reasons for the determination.

Subd. 7. AGREEMENT DETERMINING TAX LIABILITY. When it appears to be in the best interests of the state, the commissioner may settle any taxes, surcharges, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or by the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement is final and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact, the case must not be reopened as to the matters agreed upon.

Subd. 8. APPEAL OF AN ADMINISTRATIVE DETERMINATION. After deciding an appeal, the commissioner shall issue an order reflecting that decision. The order must be issued notwithstanding any statute of limitations for making assessments or other determinations. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. The order is appealable to the Minnesota tax court under section 271.06.

Subd. 9. APPEAL WHERE NO DETERMINATION. If the commissioner does not make a determination within six months after the filing of an administrative appeal, the taxpayer may appeal to tax court.

Subd. 10. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT. This section is not subject to the contested case procedures of chapter 14.

Sec. 21. PURPOSE.

It is the intent of the legislature to simplify Minnesota's insurance tax laws by consolidating and recodifying tax administration and compliance provisions now contained throughout Minnesota Statutes, chapter 60A, and elsewhere. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, remain in effect until superseded by the analogous provision in the new law.

Sec. 22. EFFECTIVE DATES.

Sections 1 and 16 are effective January 1, 2001.

Sections 2 to 9 and 18 are effective for returns, taxes, surcharges, and estimated payments required to be filed or paid for tax years beginning on or after January 1, 2001.

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Sections 10 to 12 are effective for assessments made and examinations and audits commenced on or after January 1, 2001.

Section 13 is effective for claims for refunds filed on or after January 1, 2001.

Section 14 is effective for assessments that have not been made as of the day following final enactment. The time period for making such assessments is the time period prescribed in the enacted section or one year after the day following final enactment, whichever is greater.

Section 15 is effective for claims for refund which have not been filed as of the day following final enactment and in which the time period for filing the claim has not expired under the provisions in effect prior to the day following final enactment. The time period for filing such claims is the time period prescribed in the enacted sections, or one year after the day following final enactment, whichever is greater.

Section 17 is effective for all amounts due on or after January 1, 2001.

Section 19 is effective for crimes committed on or after January 1, 2001.

Section 20 is effective for assessments made or refund claims or abatements denied on or after January 1, 2001.

ARTICLE 2

TECHNICAL CHANGES

Section 1. Minnesota Statutes 1999 Supplement, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the judgment of the commissioner are best qualified to underwrite and service the benefit plans. Contracts entered into with carriers are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage provisions with all carriers licensed under chapters 62A, 62C, and 62D. The commissioner may also negotiate reasonable restrictions to be applied to all carriers under chapters 62A, 62C, and 62D. Contracts to underwrite the benefit plans must be bid or negotiated separately from contracts to service the benefit plans, which may be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C, and 62D. The commissioner need not provide health maintenance organization services to an employee who resides

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in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization to continue as a carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. A carrier licensed under chapter 62A is exempt from the ~~tax~~ taxes imposed by ~~section 60A.15~~ chapter 297I on premiums paid to it by the state.

All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

Sec. 2. Minnesota Statutes 1998, section 43A.316, subdivision 9, is amended to read:

Subd. 9. **INSURANCE TRUST FUND.** The insurance trust fund in the state treasury consists of deposits of the premiums received from employers participating in the program and transfers before July 1, 1994, from the excess contributions holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. Premiums paid by employers to the fund are exempt from the ~~tax~~ taxes imposed by ~~sections 60A.15 and 60A.198~~ chapter 297I. The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

Sec. 3. Minnesota Statutes 1998, section 43A.317, subdivision 8, is amended to read:

Subd. 8. **PREMIUMS.** (a) **PAYMENTS.** Employers enrolled in the program shall pay premiums according to terms established by the commissioner. If an employer fails to make the required payments, the commissioner may cancel coverage and pursue other civil remedies.

(b) **RATING METHOD.** The commissioner shall determine the premium rates and rating method for the program. The rating method for eligible small employers must meet or exceed the requirements of chapter 62L. The rating methods must recover in premiums all of the ongoing costs for state administration and for maintenance of a premium stability and claim fluctuation reserve. On June 30, 1999, after paying all necessary and reasonable expenses, the commissioner must apply up to \$2,075,000 of any remaining balance in the Minnesota employees' insurance trust fund to repayment of any amounts drawn or expended for this program from the health care access fund.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) **TAXES AND ASSESSMENTS.** To the extent that the program operates as a self-insured group, the premiums paid to the program are not subject to the premium taxes imposed by sections 60A.15 and 60A.198 chapter 297I, but the program is subject to a Minnesota comprehensive health association assessment under section 62E.11.

Sec. 4. Minnesota Statutes 1999 Supplement, section 60A.19, subdivision 6, is amended to read:

Subd. 6. RETALIATORY PROVISIONS. (1) ~~When by the laws of any other state or country any taxes, fines, deposits, penalties, licenses, or fees, in addition to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents doing business in this state, are imposed on insurance companies of this state and their agents doing business in that state or country, or when any conditions precedent to the right to do business in that state are imposed by the laws thereof, beyond those imposed upon these foreign companies by the laws of this state, the same taxes, fines, deposits, penalties, licenses, fees, and conditions precedent shall be imposed upon every similar insurance company of that state or country and their agents doing or applying to do business in this state so long as these foreign laws remain in force. Special purpose obligations or assessments, including assessments by an insurance guaranty association, joint underwriting association or similar organization, or assessments imposed in connection with particular kinds of insurance, are not taxes, licenses, or fees as these terms are used in this section.~~

(2) In the event that a domestic insurance company, after complying with all reasonable laws and rulings of any other state or country, is refused permission by that state or country to transact business therein after the commissioner of commerce of Minnesota has determined that that company is solvent and properly managed and after the commissioner has so certified to the proper authority of that other state or country, then, and in every such case, the commissioner may forthwith suspend or cancel the certificate of authority of every insurance company organized under the laws of that other state or country to the extent that it insures, or seeks to insure, in this state against any of the risks or hazards which that domestic company seeks to insure against in that other state or country. Without limiting the application of the foregoing provision, it is hereby determined that any law or ruling of any other state or country which prescribes to a Minnesota domestic insurance company the premium rate or rates for life insurance issued or to be issued outside that other state or country shall not be reasonable.

(3) (2) This section does not apply to insurance companies organized or domiciled in a state or country, the laws of which do not impose retaliatory taxes, fines, deposits, penalties, licenses, or fees or which grant, on a reciprocal basis, exemptions from retaliatory taxes, fines, deposits, penalties, licenses, or fees to insurance companies domiciled in this state.

Sec. 5. Minnesota Statutes 1998, section 60A.19, subdivision 8, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 8. INSURANCE FROM UNLICENSED FOREIGN COMPANIES.

Any person, firm, or corporation desiring to obtain insurance upon any property, interests, or risks of any nature other than life insurance in this state in companies not authorized to do business therein shall give bond to the commissioner of commerce in such sum as the commissioner shall deem reasonable, with satisfactory resident sureties, conditioned that the obligors, on the expiration of a license to obtain such insurance, shall pay to the commissioner of revenue, for the use of the state, a tax of two percent upon the gross premiums paid by the licensee in the state must agree to file with the commissioner of revenue all returns required under chapter 297I and pay to the commissioner of revenue any amounts required to be paid under chapter 297I. Thereupon Upon that agreement, the commissioner of commerce shall issue such a license, good for one year, and all insurance procured thereunder shall be lawful and under the license is valid and the provisions of all the policies thereof shall be deemed are considered to be in accordance, and construed as if identical in effect, with the standard policy prescribed by the laws of this state and. The insurers may enter the state to perform any act necessary or proper in the conduct of the business. This bond may be enforced by the commissioner of commerce in the commissioner's name in any district court. The licensee shall file with the commissioner of commerce on June 30 and December 31 annually a verified statement of the aggregate premiums paid and returned premiums received on account of such insurance.

The commissioner of revenue, or duly authorized agents, may conduct investigations, inquiries, and hearings to enforce the tax imposed by this subdivision and, in connection with those investigations, inquiries, and hearings, the commissioner and duly authorized agents have all the powers conferred by section 270.06.

Sec. 6. Minnesota Statutes 1998, section 60A.198, subdivision 3, is amended to read:

Subd. 3. PROCEDURE FOR OBTAINING LICENSE. A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) delivering to the commissioner a financial guarantee bond from a surety acceptable to the commissioner for the greater of the following:

(1) \$5,000; or

(2) the largest semiannual surplus lines premium tax liability incurred by the applicant in the immediately preceding five years;

(d) agreeing to file with the commissioner of revenue no later than February 15 and August 15 annually, a sworn statement of the charges for insurance procured or placed and the amounts returned on the insurance canceled under the license for the

New language is indicated by underline, deletions by ~~strikeout~~.

~~preceding six-month period ending December 31 and June 30 respectively, and at the time of the filing of this statement, paying the commissioner a tax on premiums equal to three percent of the total written premiums less cancellations; all returns required by chapter 297I and paying to the commissioner of revenue all amounts required under chapter 297I; and~~

(e) ~~(d)~~ paying a fee as prescribed by section 60K.06, subdivision 2, paragraph (a), clause (4); and.

(f) ~~paying penalties imposed under section 289A.60, subdivision 1, as it relates to withholding and sales or use taxes, if the tax due under clause (d) is not timely paid.~~

Sec. 7. Minnesota Statutes 1998, section 60A.208, subdivision 8, is amended to read:

Subd. 8. **OPERATING ASSESSMENT.** (a) Upon request from the association, the commissioner may approve the levy of an assessment of not more than one-half of one percent of the premiums charged pursuant to sections 60A.195 to 60A.209 for operation of the association to the extent that the operation relieves the commissioner of duties otherwise required of the commissioner pursuant to sections 60A.195 to 60A.209. Any assessment so approved may be subtracted from the premium tax owed by the licensee under chapter 297I.

(b) The association may revoke the membership and the commissioner may revoke the license in this state, of any licensee who fails to pay an assessment when due, if the assessment has been approved by the commissioner.

Sec. 8. Minnesota Statutes 1998, section 60A.209, subdivision 3, is amended to read:

Subd. 3. **DUTY TO REPORT.** Each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or subdivision 1 shall ~~file a written report regarding the insurance with the commissioner of revenue on forms prescribed by the commissioner of revenue and furnished to the insured upon request. The report shall be filed within 30 days after the date the insurance was procured, continued, or renewed and shall be accompanied by the tax on the premiums of two percent. The report shall show all of the following:~~

- (a) The name and address of the insured;
- (b) The name and address of the insurer;
- (c) The subject of the insurance;
- (d) A general description of the coverage;
- (e) The amount of premium currently charged for the insurance; and

New language is indicated by underline, deletions by ~~strikeout~~.

(f) Any additional pertinent information reasonably requested by the commissioner of revenue must file with the commissioner of revenue all returns and pay to the commissioner of revenue all amounts required under chapter 297I.

Sec. 9. Minnesota Statutes 1998, section 60C.17, is amended to read:

60C.17 TAX EXEMPTION.

The association is exempt from payment of all taxes imposed under chapter 297I and all fees and all other taxes levied by this state or any of its subdivisions except taxes levied on real or personal property.

Sec. 10. Minnesota Statutes 1998, section 60E.04, subdivision 4, is amended to read:

Subd. 4. **TAXATION.** (a) Each risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within this state, and shall report to the commissioner of revenue the net premiums written for risks resident or located within this state. The risk retention group shall be subject to taxation, and any applicable taxation-related fines and penalties, on the same basis as a foreign admitted insurer must file with the commissioner of revenue all returns and pay to the commissioner of revenue all amounts required under chapter 297I.

(b) To the extent licensed agents or brokers are utilized pursuant to in accordance with section 60E.12, they shall report to the commissioner of revenue the premiums for direct business for risks resident or located within this state which the licensees have placed with or on behalf of a risk retention group not chartered in this state.

(c) To the extent that insurance agents or brokers are utilized pursuant to in accordance with section 60E.12, each agent or broker shall keep a complete and separate record of all policies procured from each risk retention group, which shall must be open to examination by the commissioner, as provided in section 60A.031 and by the commissioner of revenue. These records shall must, for each policy and each kind of insurance provided, include the following:

- (1) the limit of liability;
- (2) the time period covered;
- (3) the effective date;
- (4) the name of the risk retention group which issued the policy;
- (5) the gross premium charged; and
- (6) the amount of return premiums, if any.

Sec. 11. Minnesota Statutes 1998, section 60E.095, is amended to read:

60E.095 PURCHASING GROUP TAXATION.

New language is indicated by underline, deletions by ~~strikeout~~.

Premium taxes and taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing groups shall be:

(1) imposed at the same rate and subject to the same interest, fines, and penalties as that applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(2) paid first by the insurance source, and if not by the source by the agent or broker for the purchasing group, and if not by the agent or broker then by the purchasing group, and if not by the purchasing group then by each of its members group must be paid to the commissioner of revenue as provided in chapter 297I.

Sec. 12. Minnesota Statutes 1998, section 61B.30, subdivision 1, is amended to read:

Subdivision 1. **STATE FEES AND TAXES.** The association is exempt from payment of all taxes imposed under chapter 297I and all fees and all other taxes levied by this state or its subdivisions, except taxes levied on real property.

Sec. 13. Minnesota Statutes 1998, section 62C.01, subdivision 3, is amended to read:

Subd. 3. **SCOPE.** Every foreign or domestic nonprofit corporation organized for the purpose of establishing or operating a health service plan in Minnesota whereby health services are provided to subscribers to the plan under a contract with the corporation shall be subject to and governed by Laws 1971, chapter 568, and shall not be subject to the laws of this state relating to insurance, except section 60A.15 the gross premiums tax provisions contained in chapter 297I and as otherwise specifically provided. Laws 1971, chapter 568 shall apply to all health service plan corporations incorporated after August 1, 1971, and to all existing health service plan corporations, except as otherwise provided. Nothing in sections 62C.01 to 62C.23 shall apply to prepaid group practice plans. A prepaid group practice plan is any plan or arrangement other than a service plan, whereby health services are rendered to certain patients by providers who devote their professional effort primarily to members or patients of the plan, and whereby the recipients of health services pay for the services on a regular, periodic basis, not on a fee for service basis.

Sec. 14. Minnesota Statutes 1998, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. **CREATION; TAX EXEMPTION.** There is established a comprehensive health association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternal; joint self-insurance plans regulated under chapter 62H; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; health maintenance organizations; and community integrated service networks licensed or authorized to do business in this state. The comprehensive health association shall be is exempt from taxation the taxes imposed under the chapter 297I and any other laws of this state and all property owned by the association shall be is exempt from taxation.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 15. Minnesota Statutes 1998, section 62E.13, subdivision 10, is amended to read:

Subd. 10. **PREMIUMS NOT SUBJECT TO TAX.** Premiums received by the writing carrier for the comprehensive health insurance plan are exempt from the provisions of ~~section 60A.15~~ taxes imposed under chapter 297I.

Sec. 16. Minnesota Statutes 1998, section 62L.13, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** The association, its transactions, and all property owned by it are exempt from taxation under the laws of this state or any of its subdivisions, including, but not limited to, premiums taxes imposed under chapter 297I, income tax, sales tax, use tax, and property tax. The association may seek exemption from payment of all fees and taxes levied by the federal government. Except as otherwise provided in this chapter, the association is not subject to the provisions of chapters 13, 60A, 62A to 62H, and section 471.705. The association is not a public employer and is not subject to the provisions of chapters 179A and 353. The board of directors and health carriers who are members of the association are exempt from sections 325D.49 to 325D.66 in the performance of their duties as directors and members of the association.

Sec. 17. Minnesota Statutes 1998, section 62T.10, is amended to read:

62T.10 MINNESOTACARE TAX.

An accountable provider network is ~~subject to the premium tax established in section 60A.15 and must pay installments as described in section 60A.15, subdivision 1, paragraph (d)~~ shall file with the commissioner of revenue all returns and pay to the commissioner of revenue all amounts required under chapter 297I.

Sec. 18. Minnesota Statutes 1998, section 64B.24, is amended to read:

64B.24 TAXATION.

Fraternal benefit societies are declared to be charitable institutions, and the property held and used for lodge purposes, and the funds of these societies shall be exempt from taxation under the general tax or revenue laws of this state, except that the real estate of the society shall be taxable. Insurance premiums paid to a fraternal benefit society are exempt from the taxes imposed under chapter 297I.

Sec. 19. Minnesota Statutes 1998, section 71A.04, subdivision 1, is amended to read:

Subdivision 1. **PREMIUM TAX.** The attorney-in-fact, in lieu of all taxes, state, county, and municipal, shall pay to the state with the filing of each annual report on or before March 1 as an annual license fee two percent of the gross premiums or deposits for the preceding calendar year, deducting all amounts returned to subscribers or credited to their accounts; and the attorney shall pay a filing fee of \$2. shall file with the commissioner of revenue all returns and pay to the commissioner of revenue all amounts required under chapter 297I.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 20. Minnesota Statutes 1998, section 79.252, subdivision 4, is amended to read:

Subd. 4. **RESPONSIBILITIES.** Assigned risk policies and contracts of coverage ~~shall be~~ are subject to ~~premium tax pursuant to section 60A.15~~ taxation under chapter 297I, and special compensation fund assessments ~~pursuant to~~ under Minnesota Statutes 1990, section 176.131, subdivision 10. The assigned risk plan shall be a member of the reinsurance association for the purposes of sections 79.34 to 79.40 and may select either retention limit provided in section 79.34, subdivision 2.

Sec. 21. Minnesota Statutes 1998, section 79.34, subdivision 1a, is amended to read:

Subd. 1a. **GROSS PREMIUMS TAX.** The direct funded ~~premium~~ premiums received by the reinsurance association is from self-insurers approved under section 176.181 and political subdivisions that self-insure ~~are subject to the gross premium tax imposed by section 60A.15~~ taxation under chapter 297I. Only direct funded premium payments made to the reinsurance association by self-insurers approved pursuant to section 176.181 and each political subdivision that self-insures shall be subject to the gross premiums tax.

Sec. 22. Minnesota Statutes 1998, section 176A.08, is amended to read:

176A.08 EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 15, 15A, and 43A. However, the fund shall be subject to sections 179A.01 to 179A.25. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of commerce has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state ~~pursuant to section 60A.15 under chapter 297I~~. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

Sec. 23. Minnesota Statutes 1998, section 290.35, subdivision 2, is amended to read:

Subd. 2. **APPORTIONMENT OF TAXABLE NET INCOME.** The commissioner shall compute therefrom the taxable net income of such companies by assigning to this state that proportion thereof which the gross premiums collected by them during the taxable year from old and new business within this state bears to the total gross premiums collected by them during that year from their entire old and new business, including reinsurance premiums; provided, the commissioner shall add to the taxable net income so apportioned to this state the amount of any taxes on premiums paid by the company by virtue of any law of this state (other than the surcharge on premiums imposed by ~~sections 69.54 to 69.56~~ section 297I.10 and the surcharge imposed by

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section 168A.40, subdivision 3) which shall have been deducted from gross income by the company in arriving at its total net income under the provisions of such act of Congress.

(a) For purposes of determining the Minnesota apportionment percentage, premiums from reinsurance contracts in connection with property in or liability arising out of activity in, or in connection with the lives or health of Minnesota residents shall be assigned to Minnesota and premiums from reinsurance contracts in connection with property in or liability arising out of activity in, or in connection with the lives or health of non-Minnesota residents shall be assigned outside of Minnesota. Reinsurance premiums are presumed to be received for a Minnesota risk and are assigned to Minnesota, if:

(1) the reinsurance contract is assumed for a company domiciled in Minnesota; and

(2) the taxpayer, upon request of the commissioner, fails to provide reliable records indicating the reinsured contract covered non-Minnesota risks.

For purposes of this paragraph, "Minnesota risk" means coverage in connection with property in or liability arising out of activity in Minnesota, or in connection with the lives or health of Minnesota residents.

(b) The apportionment method prescribed by paragraph (a) shall be presumed to fairly and correctly determine the taxpayer's taxable net income. If the method prescribed in paragraph (a) does not fairly reflect all or any part of taxable net income, the taxpayer may petition for or the commissioner may require the determination of taxable net income by use of another method if that method fairly reflects taxable net income. A petition within the meaning of this section must be filed by the taxpayer on such form as the commissioner shall require.

Sec. 24. Minnesota Statutes 1998, section 290.35, subdivision 3, is amended to read:

Subd. 3. **CREDIT.** An insurance company shall receive a credit against the tax computed under sections 290.06, subdivision 1, and 290.0921, equal to any taxes based on premiums paid by it that are attributable to the period for which the tax under this chapter is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by ~~sections 69.54 to 69.56~~ section 297I.10.

Sec. 25. Minnesota Statutes 1998, section 290.35, subdivision 6, is amended to read:

Subd. 6. **GUARANTY ASSOCIATION ASSESSMENT OFFSET.** (a) An insurance company may offset against its corporate franchise tax liability under this chapter any amount paid pursuant to assessments made for insolvencies which occur after July 31, 1994, under sections 60C.01 to 60C.22, and any amount paid pursuant to assessments made after July 31, 1994, under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or sections 61B.18 to 61B.32, as follows:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) (1) Each such assessment shall give rise to an amount of offset equal to 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(b) (2) The amount of offset initially determined for each taxable year is the sum of the amounts determined under paragraph (a) clause (1) for that taxable year.

~~(c)~~ (b)(1) Each year the commissioner of revenue shall compare total guaranty association assessments levied over the preceding five calendar years to the sum of all premium tax and corporate franchise tax revenues collected from insurance companies without reduction for any guaranty association assessment offset, in the preceding calendar year, referred to in this subdivision as "preceding year insurance tax revenues."

(2) If total guaranty association assessments levied over the preceding five years exceed the preceding year insurance tax revenues, insurance companies shall be allowed only a proportionate part of the corporate franchise tax offset calculated under paragraph (b) (a) for the current calendar year.

(3) The proportionate part of the corporate franchise tax offset allowed in the current calendar year is determined by multiplying the amount calculated under paragraph (b) (a) by a fraction, the numerator of which equals the preceding year insurance tax revenues and the denominator of which equals total guaranty association assessments levied over the preceding five-year period.

(4) The proportionate part of the premium tax offset that is not allowed shall must be carried forward to subsequent tax years and added to the amount of corporate franchise tax offset calculated under paragraph (b) (a) before application of the limitation imposed by this paragraph.

(5) Any amount carried forward from prior years must be allowed before allowance of the offset for the current year calculated under paragraph (b) (a).

(6) The corporate franchise tax offset limitation must be calculated separately for (1) insurance companies subject to assessment under sections 60C.01 to 60C.22, and (2) insurance companies subject to assessment under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or sections 61B.18 to 61B.32.

(7) When the corporate franchise tax offset is limited by this provision, the commissioner of revenue will notify affected insurance companies on a timely basis for purposes of completing premium and corporate franchise tax returns.

(8) The guaranty associations created under sections 60C.01 to 60C.22, Minnesota Statutes 1992, sections 61B.01 to 61B.16, and sections 61B.18 to 61B.32, shall provide the commissioner of revenue with the necessary information on guaranty association assessments. ~~The limitation in this paragraph is effective for offsets allowable in 1999 and thereafter.~~

~~(d)~~ (c)(1) If the offset determined by the application of paragraphs (a) to ~~(c)~~ and (b) exceeds the greater of the insurance company's corporate franchise tax liability under this chapter prior to allowance of the credit provided by subdivision 3 or its

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premium tax liability under chapter 60A 297I, then the insurance company may carry forward the excess, referred to in this subdivision as the "carryforward credit," to subsequent taxable years.

(2) The carryforward credit must be allowed as an offset against corporate franchise tax liability for the first succeeding year to the extent that the corporate franchise tax liability for that year exceeds the amount of the allowable offset for the year determined under paragraphs (a) ~~to (e)~~ and (b).

(3) The carryforward credit ~~shall~~ must be reduced, but not below zero, by the greater of the amount of the carryforward credit allowed as an offset against the corporate franchise tax pursuant to this paragraph or the amount of the carryforward credit allowed as an offset against the insurance company's premium tax liability under chapter 60A 297I pursuant to section 60A.15, subdivision 15, paragraph (d) 297I.20, paragraph (c). The remainder, if any, of the carryforward credit must be carried forward to succeeding taxable years until the entire carryforward credit has been credited against the insurance company's liability for corporate franchise tax under this chapter and premium tax under chapter 60A 297I.

~~(e) (d) A refund paid by the Minnesota Life and Health Insurance Guaranty Association to member insurers under Minnesota Statutes 1992, section 61B.07, subdivision 6, or section 61B.24, subdivision 6, with respect to an assessment payment which has been offset against taxes shall reduce the carryforward credit determined under paragraph (d) and, if the refund exceeds the amount of the carryforward credit, shall be repaid by the insurers to the extent of the offset to the state in the manner the commissioner of revenue requires. When an insurer has offset against taxes its payment of an assessment of the Minnesota life and health guaranty association, and the association pays the insurer a refund with respect to the assessment under Minnesota Statutes 1992, section 61B.07, subdivision 6, or 61B.24, subdivision 6, then the refund reduces the insurer's carryforward credit under paragraph (c). If the refund exceeds the amount of the carryforward credit, the excess amount must be repaid to the state by the insurers to the extent of the offset in the manner the commissioner requires.~~

Sec. 26. Minnesota Statutes 1998, section 295.58, is amended to read:

295.58 DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax imposed by section 297L.05, subdivision 5, on health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund in the state treasury. Refunds of overpayments must be paid from the health care access fund in the state treasury. There is annually appropriated from the health care access fund to the commissioner of revenue the amount necessary to make any refunds required under section 295.54.

Sec. 27. Minnesota Statutes 1998, section 424.165, is amended to read:

424.165 SPECIAL FUND, MAINTENANCE.

New language is indicated by underline, deletions by strikeout.

Subdivision 1. **SURCHARGE.** When the balance in the special fund of any firefighter's relief association in any city of the second class is less than \$50,000 as determined by any such association's board of trustees, which fact shall be duly certified to by the state auditor, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the commissioner of revenue. The commissioner of revenue shall thereupon order and direct a surcharge to be collected of two percent of the fire, lightning and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance company on property in such city of the second class, or by its agents for it, in cash or otherwise, until the balance in the special funds of such relief association amounts to \$50,000 and for a period of 15 days thereafter. As soon as the balance in said special fund amounts to \$50,000 the board of trustees of such relief association shall certify that fact to the commissioner of revenue and the commissioner of revenue shall forthwith issue an order ordering and directing that the collection of such surcharge shall be discontinued after the expiration of said 15-day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the state treasurer in semiannual installments on June 30 and December 31 of each calendar year to be kept by the state treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three percent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

Subd. 2. **ISSUANCE OF WARRANT.** The commissioner of finance on July 31, 1938, and semiannually thereafter, shall issue and deliver to the treasurer of such relief association in such city a warrant upon the state treasurer for an amount equal to the total amount of said surcharge on said premiums within such city theretofore so collected and transmitted to the state treasurer by such insurance companies. Said warrants shall be paid out of said separate fund hereinbefore provided for, and the payment in each case shall be made to the treasurer of the relief association presenting the warrant.

There is hereby appropriated to such firefighter's relief association, from such fund or account in the state treasury to which the money was credited, such sums as may, from time to time, be necessary to pay these warrants.

Subd. 3. **FUNDS TO BE KEPT IN SPECIAL FUND.** The treasurer of such relief association shall place the money received in payment of any such warrant in the special fund of such relief association.

Subd. 4. **EMERGENCY DECLARED TO EXIST.** An emergency exists and this section shall be construed as a relief measure for firefighter's relief associations in any city of the second class.

When the balance in the special fund of any firefighter's relief association in any city of the second class is less than \$50,000 as determined by the board of trustees of the association, and as certified by the state auditor, the board of trustees may file with the commissioner a request to impose the surcharge on fire, lightning, and sprinkler leakage insurance premiums authorized under section 297I.10, subdivision 2.

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Sec. 28. REPEALER.

Minnesota Statutes 1998, sections 60A.15; 60A.152; 60A.198, subdivision 6; 60A.199, subdivisions 2, 3, 4, 5, 6, 6a, 7, 8, 9, 10, and 11; 60A.209, subdivisions 4 and 5; 69.54; 69.55; 69.56; 69.57; 69.58; 69.59; 69.60; 69.61; 71A.04, subdivision 2; 299F.21; 299F.22; 299F.23; 299F.24; 299F.25; and 299F.26; and Minnesota Rules, part 2765.1500, subpart 6, are repealed.

Sec. 29. EFFECTIVE DATE.

This article is effective January 1, 2001.

Presented to the governor April 11, 2000

Signed by the governor April 14, 2000, 2:11 p.m.

CHAPTER 395—S.F.No. 2783

An act relating to state government; defining a term for the purposes of chapter 16A; regulating fees of the secretary of state; regulating the filing of annual registrations by corporations and other business entities with the secretary of state; providing for technical amendments to provisions regarding digital signatures; allowing the extension of duration of certain nonprofit corporations; amending Minnesota Statutes 1998, sections 5.12, subdivision 1; 5.14; 16A.011, by adding a subdivision; 302A.821; 303.14, subdivision 1; 303.21, subdivision 3; 317A.801, subdivision 1; 317A.823; 317A.827; 318.02, by adding a subdivision; 322B.960; 323A.10-03; 325K.07, subdivision 3; 325K.10, subdivisions 1 and 2; 325K.18, subdivision 3; 325K.19; and 325K.23; Minnesota Statutes 1999 Supplement, sections 325K.05, subdivision 1; and 336.9-411; proposing coding for new law in Minnesota Statutes, chapters 5; and 308A; repealing Minnesota Statutes 1998, sections 303.07, subdivision 2; 303.14, subdivisions 3, 4, and 5; and 322B.960, subdivision 3.

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

Section 1. Minnesota Statutes 1998, section 5.12, subdivision 1, is amended to read:

Subdivision 1. **FEES.** The secretary of state shall charge a fee of \$5 for each certificate or certification of a copy of any document filed in the office of the secretary of state. The secretary of state shall charge a fee of \$3 for a copy of an original filing of a corporation, limited partnership, trade or service mark, or for the complete record of a certificate of assumed name. The secretary of state shall charge a fee of \$3 for a copy of any or all subsequent filings of a corporation, limited partnership, or trade or service mark. The secretary of state shall charge a fee of \$1 per page for copies of other nonuniform commercial code documents filed with the secretary of state. At the time of filing, the secretary of state may provide at the public counter, without charge, a copy of a filing, ten or fewer pages in length, to the person making the filing.

New language is indicated by underline, deletions by ~~strikeout~~.