

heard, upon the mayor of the city, the president of the statutory city, or the chair of the town board of the town where such land is situated. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation, and if, in the judgment of the court, the same would be damaged, the court may determine the amount of such damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by the county recorder. The district court shall not vacate or alter any street, alley, or public ground dedicated to the public use in or by any such plat in any city or town organized under a charter or special law which provides a method of procedure for the vacation of streets and public grounds by the municipal authorities of such city or town.

Presented to the governor May 18, 1989

Signed by the governor May 19, 1989, 12:09 a.m.

CHAPTER 184—H.F.No. 243

An act relating to the department of revenue; recodifying information and disclosure provisions to increase uniformity of treatment and comply with the data privacy act; amending Minnesota Statutes 1988, sections 60A.17, subdivision 20; 82.27, subdivision 7; 147.091, subdivision 7; 148.10, subdivision 5; 148B.06, subdivision 3; 150A.08, subdivision 9; 171.31; 176.186; 176.231, subdivision 9; 256.978; 270.052; 270.064; 270.66, subdivision 3; 270.72, subdivision 4; 270.73, subdivision 1; 270A.11; 290.081; 290.174; 290.371, subdivision 5; 290.50, subdivision 6; 290.523, subdivision 1; 290.91; 290.92, subdivisions 5a, 17, and 26; 290A.112, subdivision 1; 297A.07; 326.20, subdivision 4; and 469.173, subdivision 5; proposing coding for new law as Minnesota Statutes, chapter 270B; repealing Minnesota Statutes 1988, sections 13.70; 290.05, subdivision 7; 290.61; 290A.17; 291.48; and 297A.43.

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

ARTICLE 1

Section 1. [270B.01] DEFINITIONS.

Subdivision 1. WORDS, TERMS, AND PHRASES. The definitions in this section apply to this chapter.

Subd. 2. RETURN. “Return” means a tax or information return, declaration of estimated tax, or claim for refund under Minnesota tax laws that is filed with the commissioner. “Return” includes any amendment or supplement to those documents, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return. “Return” also includes any report, application, or other form required to be filed with the commissioner under Minnesota tax laws.

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Subd. 3. RETURN INFORMATION. “Return information” means a taxpayer’s identity, the nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, given to, or collected by the commissioner with respect to the determination of the existence, possible existence, or amount of liability of any person under Minnesota tax laws for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense. “Return information” includes the failure to file any return required to be filed with the commissioner under Minnesota tax laws. The term does not include data in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

Subd. 4. TAX ADMINISTRATION. “Tax administration” means:

(1) the administration, management, conduct, direction, and supervision of the execution and application of Minnesota tax laws; and

(2) the development and formulation of state tax policy relating to the existing or proposed tax laws and related statutes.

“Tax administration” includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under existing or proposed tax laws and related statutes.

Subd. 5. TAXPAYER IDENTITY. “Taxpayer identity” means the name of a person with respect to whom a return is filed, or the person’s mailing address, or the person’s taxpayer identifying number.

Subd. 6. INSPECTED; INSPECTION. “Inspected” and “inspection” mean any examination of a return or return information.

Subd. 7. DISCLOSURE. “Disclosure” means the making known to any person in any manner whatever a return or return information.

Subd. 8. MINNESOTA TAX LAWS. For purposes of this chapter only, “Minnesota tax laws” means the taxes administered by or paid to the commissioner under chapters 290, 290A, 291, and 297A, and includes any laws for the assessment, collection, and enforcement of those taxes.

Subd. 9. COMMISSIONER. “Commissioner” means the commissioner of revenue.

Subd. 10. PERSON. “Person” includes individuals, fiduciaries, estates, trusts, partnerships, and corporations.

Subd. 11. TAXPAYER. “Taxpayer” means a person required to file, or who files, a return with the commissioner under Minnesota tax laws.

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Subd. 12. DEPARTMENT OF REVENUE DATA. “Department of revenue data” means data regarding tax administration collected, created, or maintained by the department of revenue.

Sec. 2. [270B.02] CLASSIFICATION OF DATA.

Subdivision 1. GENERAL RULE. Except as otherwise provided in this chapter, returns and return information are private data on individuals or non-public data as defined in section 13.02, subdivisions 9 and 12. Except as authorized by this chapter, the department of revenue, the commissioner, an officer or employee or former officer or employee of the department of revenue, a person engaged or retained by the department on an independent contract basis, or a person who, under sections 270B.05 to 270B.15, is permitted to inspect returns or return information may not disclose returns or return information.

Subd. 2. PROTECTED NONPUBLIC DATA. The following are protected nonpublic data as defined in section 13.02, subdivision 13:

(1) criteria for determining which computer processed returns are selected for audit;

(2) criteria for determining which returns are selected for an in-depth audit; and

(3) criteria for determining which accounts receivable balances below a stated amount are written off or canceled.

Subd. 3. CONFIDENTIAL DATA ON INDIVIDUALS; PROTECTED NONPUBLIC DATA. (a) Except as provided in paragraph (b), names of informers, informer letters, and other unsolicited data, in whatever form, given to the department of revenue by a person, other than the data subject, that inform that a specific taxpayer is not or may not be in compliance with tax laws are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13.

(b) Data under paragraph (a) may be disclosed with the consent of the informer or upon a written finding by a court that the information provided by the informer was false and that there is evidence that the information was provided in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Subd. 4. PUBLIC DATA. Information required to be filed by exempt individuals, corporations, organizations, estates, and trusts under section 290.05, subdivisions 1 and 4, is public data on individuals or public data not on individuals, as defined in section 13.02, subdivisions 14 and 15. The commissioner may publish a list of organizations exempt from taxation under section 290.05, except that the name or address of any contributor to any organization that is or was exempt, or that has applied for tax exempt status, or any other information

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that could not be disclosed under section 6104 of the Internal Revenue Code of 1986, as amended through December 31, 1988, is classified as private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

Subd. 5. MAINTAINING CLASSIFICATIONS. Notwithstanding section 13.03, subdivision 7, returns and return information retain the classification designated under this chapter. Notwithstanding sections 13.03, subdivision 8, and 13.10, department of revenue data classified under this chapter as nonpublic data, protected nonpublic data, private data on individuals, or confidential data on individuals remain so classified.

Sec. 3. [270B.03] DISCLOSURE TO DATA SUBJECT.

Subdivision 1. WHO MAY INSPECT. Returns and return information must, on written request, be made open to inspection by or disclosure to the data subject. For purposes of this chapter, the following are the data subject:

(1) in the case of an individual return, that individual;

(2) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(3) in the case of a partnership return, any person who was a member of the partnership during any part of the period covered by the return;

(4) in the case of the return of a corporation or its subsidiary:

(i) any person designated by resolution of the board of directors or other similar governing body;

(ii) any officer or employee of the corporation upon written request signed by any officer and attested to by the secretary or another officer;

(iii) any bona fide shareholder of record owning one percent or more of the outstanding stock of the corporation;

(iv) if the corporation is a corporation that has made an election under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1988, any person who was a shareholder during any part of the period covered by the return during which an election was in effect; or

(v) if the corporation has been dissolved, any person authorized by state law to act for the corporation or any person who would have been authorized if the corporation had not been dissolved;

(5) in the case of an estate return:

(i) the personal representative or trustee of the estate, and

(ii) any heir at law, next of kin, or beneficiary of the estate, but only if the commissioner finds that the heir at law, next of kin, or beneficiary has a material interest that will be affected by information contained in the return;

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(6) in the case of a trust return:

(i) the trustee or trustees, jointly or separately; and

(ii) any beneficiary of the trust, but only if the commissioner finds that the beneficiary has a material interest that will be affected by information contained in the return; and

(7) if liability has been assessed to a transferee under section 290.29, the transferee is the data subject with regard to the returns and return information relating to the assessed liability.

Subd. 2. INCAPACITATION. If an individual is legally incapacitated under sections 525.539 to 525.61, or similar laws of another state, that individual's return and return information is, upon written request, open to inspection by or disclosure to the guardian or conservator appointed for the individual or the individual's estate.

Subd. 3. DECEASED INDIVIDUALS. Notwithstanding section 13.10, a return filed by or on behalf of a decedent is open to inspection by or disclosure to:

(1) the personal representative of the decedent's estate or trustee appointed under section 573.02, subdivision 3, or a similar law of another state; and

(2) any heir at law, next of kin, or beneficiary under the will of the decedent, or a donee of property, but only if the commissioner finds that the heir at law, next of kin, beneficiary, or donee has a material interest that will be affected by information contained in the return.

Subd. 4. TITLE 11 OF THE UNITED STATES CODE AND RECEIVERSHIP PROCEEDINGS. (a) If the commissioner finds that the trustee or receiver, in that person's fiduciary capacity, has a material interest that will be affected by information contained in the return, a return is open to inspection by or disclosure to the trustee or receiver if:

(1) there is a trustee in a title 11 (United States Bankruptcy Code) case in which the debtor is the person with respect to whom the return is filed; or

(2) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver.

(b) In an involuntary bankruptcy case of an individual, no disclosure may be made under paragraph (a) until the order for relief has been entered by the court having jurisdiction of the case, unless the court finds that disclosure is appropriate for purposes of determining whether an order for relief should be entered.

Subd. 5. ATTORNEY IN FACT. Any return or return information to which this section applies is, upon written request, open to inspection by or

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disclosure to the attorney in fact duly authorized in a writing signed by the data subject or to the person or persons designated by the data subject in a written request for or consent to the disclosure.

Subd. 6. INVESTIGATIVE DATA. Notwithstanding any law to the contrary, the disclosure of investigative data collected or created by the department of revenue in order to prepare a case against a person, whether known or unknown, for the commission of a crime is governed by section 13.82, subdivision 5, during an investigation. When the investigation becomes inactive, as defined in section 13.82, subdivision 5, the previous classifications become effective.

Subd. 7. REQUESTS. The commissioner may prescribe a form to be completed by the data subject requesting or authorizing inspection or disclosure of returns and return information.

Subd. 8. ACCESS TO DATA. Section 13.03, subdivision 3, applies to requests for access to data under this section.

Sec. 4. [270B.04] STATISTICAL STUDIES.

Subdivision 1. GENERAL RULE. The commissioner may compile statistical studies from information derived from returns and return information and may disclose the results of those studies. In addition, the commissioner may disclose statistical information from returns and return information to the governor, legislature, or another state agency to allow those governmental entities to conduct their own statistical studies.

Subd. 2. PROTECTION FROM DISCLOSURE. Notwithstanding subdivision 1, the commissioner may not disclose the results of a study and may not disclose any statistical information if, as a result of that disclosure:

- (1) the identity of a taxpayer who filed a return would be disclosed;
- (2) the identity of a taxpayer could reasonably be associated with any of the information that was derived from the taxpayer's return; or
- (3) the ability of the commissioner to obtain information from federal tax returns would, in the commissioner's judgment, be jeopardized in any manner.

Sec. 5. [270B.05] DISCLOSURE IN TAX PROCEEDING.

Subdivision 1. JUDICIAL OR ADMINISTRATIVE PROCEEDING. A return or return information may be disclosed in a judicial or administrative proceeding pertaining to or relating to tax administration as follows:

- (1) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, a determination of the taxpayer's civil or criminal liability or the collection of the taxpayer's civil liability, with respect to a tax imposed under Minnesota tax laws;

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(2) if the treatment of an item reflected on the return is directly related to the resolution of an issue in the proceeding; or

(3) if the return or return information directly relates to a transactional relationship between the taxpayer and a person who is a party to the proceeding when that relationship directly affects the resolution of an issue in the proceeding.

Subd. 2. GOVERNMENT LEGAL REPRESENTATIVES. A return or return information may be inspected by or disclosed to the attorney general or other legal representatives of the state, county, or municipality in a proceeding involving or relating to tax administration as follows:

(1) if the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, the determination of the taxpayer's civil or criminal liability or the collection of the taxpayer's civil liability with respect to any tax imposed under Minnesota tax laws;

(2) if the treatment of an item reflected on the return is or may be related to the resolution of an issue in the proceeding; or

(3) if the return or return information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding when that relationship affects or may affect the resolution of an issue in the proceeding.

Sec. 6. [270B.06] DISCLOSURE IN INVESTIGATION.

Subdivision 1. CRITERIA FOR DISCLOSURE. In connection with official duties related to tax administration, the commissioner, the attorney general, or other legal representative of the state, county, or municipality may disclose returns or return information to the extent that the disclosure is necessary in obtaining information that is not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected, or with respect to the enforcement of another provision of the Minnesota tax laws.

Subd. 2. THIRD PARTY RETURNS. The commissioner, the attorney general, or other legal representative of the state, county, or municipality may disclose pertinent return information of a third party to a taxpayer subject to an investigation pertaining to tax administration if the treatment of an item reflected on the third party return is or may be related to the resolution of an issue in the investigation.

Subd. 3. DISCLOSURE TO EMPLOYER. The commissioner may disclose returns and return information of an employee to an employer for the purpose of and to the extent necessary to administer section 290.92, subdivision 5a.

Sec. 7. [270B.07] LICENSE CLEARANCE.

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Subdivision 1. DISCLOSURE TO LICENSING AUTHORITIES. The commissioner may disclose return information with respect to returns filed under Minnesota tax laws to licensing authorities of the state or political subdivisions of the state to the extent necessary to enforce the license clearance programs under sections 60A.17, 82.27, 147.091, 148.10, 150A.08, and 270.72.

Subd. 2. DISCLOSURE TO COURT AND BOARD OF PROFESSIONAL RESPONSIBILITY. The commissioner may disclose return information to the Minnesota Supreme Court and the board of professional responsibility regarding the amount of an uncontested delinquent tax due under the Minnesota tax law or the failure to file a tax return due under Minnesota tax laws by an attorney admitted to practice law in this state under chapter 481.

Subd. 3. EXTENT OF DISCLOSURE. Data that may be disclosed under this section are limited to the name, address, amount of delinquency, and whether a return has been filed by an applicant for a license, licensee, or attorney.

Sec. 8. [270B.08] SALES TAX PERMITS.

Subdivision 1. PERMIT INFORMATION. The commissioner may disclose to any person making an inquiry regarding the issuance of a sales tax permit to a specific retailer whether a permit has been issued to the retailer, the name and address of the permit holder, the business name and location, the sales and use tax account number, and the date of issuance of the permit.

Subd. 2. REVOCATION. When a taxpayer's sales tax permit has been revoked under section 297A.07, the commissioner may disclose data identifying the holder of the revoked permit and the basis for the revocation.

Sec. 9. [270B.09] CONTRACTS WITH THE STATE; SETOFF.

The commissioner may disclose to the department of finance or any state agency making payment to a vendor as described in section 270.66 or 290.97 whether the vendor has an uncontested delinquent tax liability owed to the commissioner and the amount of any liability.

Sec. 10. [270B.10] INFORMATION IN PUBLIC RECORD.

A return or return information that is a matter of public record is not subject to this chapter.

Sec. 11. [270B.11] DISCLOSURE TO LOCATE TAXPAYERS OWED REFUND.

To locate the named payee on state warrants issued under the Minnesota tax laws and undeliverable by the United States postal service, the commissioner may publish in a newspaper of general circulation in this state, or make available to radio or television stations, a list of the name and the last known address of the payee as shown on the returns filed with the commissioner. The list must not contain any additional information set forth on a return. The commissioner may exclude the names of payees whose refunds are in an amount that is less

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than a minimal amount to be determined by the commissioner. The publication or announcement must include instructions on how to claim the warrants.

Sec. 12. [270B.12] DISCLOSURE TO STATE AND FEDERAL AUTHORITIES.

Subdivision 1. IRS; STATE RECIPROCITY. Returns and return information may be open to inspection by or disclosure to the Internal Revenue Service, the Multistate Tax Commission, or to any state agency, body, or commission, or its legal representatives, that is charged under the laws of that state with the responsibility for administration of state tax laws. Inspection or disclosure is permitted to the extent that the state agency, body, or commission gives similar rights of inspection or disclosure to officials of this state. The commissioner may enter into an agreement with the Internal Revenue Service or another state agency, body, or commission outlining procedures to implement the exchange of information under this section, but an agreement may provide for the disclosure of data only to the extent allowed under this section. Inspection or disclosure is allowed only for the purpose of and to the extent necessary for the administration of tax laws.

Subd. 2. MUNICIPALITIES. Sales and use tax returns and return information are open to inspection by or disclosure to the taxing officials of any municipality of the state of Minnesota that has a local sales or use tax, for the purpose of and to the extent necessary for the administration of the local sales and use tax.

Subd. 3. REQUEST FORM; NAMED INSPECTOR. Inspections and disclosures permitted under subdivisions 1 and 2 are allowed only upon written request in a form prescribed by the commissioner and may be made only to the representatives of the agency, body, or commission named in the written request as the individuals who are to inspect or receive the returns or return information on behalf of the agency, body, or commission.

Subd. 4. DEPARTMENT OF PUBLIC SAFETY. The commissioner may disclose return information to the department of public safety for the purpose of and to the extent necessary to administer section 270.73.

Subd. 5. PROTECTION OF RETURNS FROM IRS OR OTHER STATES. Disclosure of returns and return information received by the commissioner from the Internal Revenue Service or another state or received by the Internal Revenue Service or another state from the commissioner is governed by the law applicable to the Internal Revenue Service or state that more stringently protects the information from disclosure.

Subd. 6. DEPARTMENT OF REVENUE EMPLOYEES; ATTORNEY GENERAL. Returns and return information may be open to inspection by or disclosure to an employee of the department of revenue and the attorney general for the purpose of and to the extent necessary to administer tax laws.

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Sec. 13. [270B.13] VENDORS HIRED FOR TAX ADMINISTRATION PURPOSES.

Subdivision 1. ACCESS TO DATA. Independent contractors and vendors performing services for the department of revenue in connection with the following activities have access to private data on individuals and nonpublic data to the extent necessary to perform that service: (1) the processing of returns and the payment of tax; (2) developing, implementing, and using computer programs or equipment; (3) microfilming returns and return information; (4) preparing tax return labels; or (5) any other authorized services connected to tax administration.

Subd. 2. PROCEDURES TO PROTECT INFORMATION. An independent contractor or a vendor performing services under subdivision 1 must establish procedures for safeguarding the information.

Sec. 14. [270B.14] DISCLOSURE FOR PURPOSES OTHER THAN TAX ADMINISTRATION.

Subdivision 1. DISCLOSURE TO COMMISSIONER OF HUMAN SERVICES. (a) On the request of the commissioner of human services, the commissioner shall disclose return information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

Subd. 2. DISCLOSURE TO DEPARTMENT OF JOBS AND TRAINING. (a) Data relating to individuals are treated as follows:

(1) Return information may be disclosed to the department of jobs and training to the extent provided in clause (2) and for the purposes provided in clause (3).

(2) The data that may be disclosed is limited to the amount of gross income earned by an individual, the total amounts of earnings from each employer, and the employer's name.

(3) Data may be requested pertaining only to individuals who have claimed benefits under sections 268.03 to 268.231 and only if the individuals are the

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subject of investigations based on other information available to the department of jobs and training. Data received may be used only as set forth in section 268.12, subdivision 12, clause (d).

(b) Data pertaining to corporations or other employing units may be disclosed to the department of jobs and training to the extent necessary for the proper enforcement of chapter 268.

Subd. 3. ADMINISTRATION OF ENTERPRISE ZONE PROGRAM. The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the department of trade and economic development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7.

Subd. 4. REVENUE RECAPTURE. (a) The commissioner may disclose return information to a claimant agency as defined in section 270A.03, subdivision 2, with respect to returns filed under chapters 290 and 290A, as limited by paragraph (b) as necessary to accomplish the intent of chapter 270A.

(b) The commissioner may disclose to the claimant agency only the name, address, social security number and the amount of refund of a debtor, as defined in section 270A.03, subdivision 4.

Subd. 5. CHILD SUPPORT DEBTORS. The commissioner may disclose returns and return information with respect to returns filed under chapter 290, to the extent necessary to accomplish the intent of section 290.50, subdivision 6, providing for the withholding of income tax refunds from child support debtors pursuant to court order.

Subd. 6. BUSINESS ACTIVITIES REPORT. The commissioner may disclose information regarding the filing of a report or a return to the extent provided in and for the purpose of section 290.371.

Subd. 7. MINNESOTA RACING COMMISSION. The commissioner may disclose return information relating to the taxes imposed by chapter 290 to the Minnesota racing commission with respect to an applicant or a holder of a license issued by the Minnesota racing commission or an owner of a horse entered in an event licensed by the Minnesota racing commission.

Subd. 8. EXCHANGE BETWEEN DEPARTMENTS OF JOBS AND TRAINING, LABOR AND INDUSTRY, AND REVENUE. Notwithstanding any law to the contrary, the departments of jobs and training, labor and industry, and revenue may exchange information on a reciprocal basis. Data that may be disclosed are limited to data used in determining whether a business is an employer or a contracting agent.

Subd. 9. REQUESTS FOR DATA. Requests for data under this section must be in the form the commissioner prescribes.

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Subd. 10. PROCEDURES TO PROTECT INFORMATION. A state agency or municipality receiving department of revenue data under this chapter must establish procedures for safeguarding the information.

Sec. 15. [270B.15] DISCLOSURE TO LEGISLATIVE AUDITOR.

Returns and return information must be disclosed to the legislative auditor to the extent necessary for the legislative auditor to carry out sections 3.97 to 3.98.

Sec. 16. [270B.16] DISCOVERY OF REVENUE DATA.

Notwithstanding any law to the contrary, data collected by the department of revenue are not subject to discovery in a legal action, other than an action or proceeding in connection with tax administration, unless disclosure of the data is authorized under this chapter.

Sec. 17. [270B.17] REMEDIES.

The civil remedies provided in section 13.08 are available to remedy violations of any provision of this chapter.

Sec. 18. [270B.18] CRIMINAL PENALTIES.

Subdivision 1. UNAUTHORIZED WILLFUL DISCLOSURE. A person willfully making a disclosure not authorized by this chapter is guilty of a gross misdemeanor.

Subd. 2. UNAUTHORIZED COMPUTER DATA ACCESS. In addition to the computer crimes provided in sections 609.87 to 609.89, a person who intentionally and without authority attempts to or does penetrate property or a computer program or programs, as defined in section 609.87, containing department of revenue data, is guilty of a gross misdemeanor.

Subd. 3. PUBLIC EMPLOYEE VIOLATIONS. A willful violation of this chapter by a public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Sec. 19. [270B.19] RULES.

The commissioner may adopt rules necessary for the enforcement and administration of this chapter consistent with its provisions.

Sec. 20. REPEALER.

Minnesota Statutes 1988, sections 13.70; 290.05, subdivision 7; 290.61; 290A.17; 291.48; and 297A.43 are repealed.

Sec. 21. EFFECTIVE DATE.

This article is effective July 1, 1989, and applies to all department of revenue data created, collected, or maintained on, before, or after that date.

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ARTICLE 2

Section 1. Minnesota Statutes 1988, section 60A.17, subdivision 20, is amended to read:

Subd. 20. **TAX CLEARANCE CERTIFICATE.** (a) The commissioner may not issue or renew a license under this section if the commissioner of revenue notifies the commissioner and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The commissioner may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the commissioner. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivisions 6c and 6d, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The commissioner shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the commissioner must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

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Sec. 2. Minnesota Statutes 1988, section 82.27, subdivision 7, is amended to read:

Subd. 7. **TAX CLEARANCE CERTIFICATE.** (a) In addition to the provisions of subdivision 1, the commissioner may not issue or renew a license if the commissioner of revenue notifies the commissioner and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The commissioner may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the commissioner. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivisions 3, 4, 5, and 6, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The commissioner shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the commissioner must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 3. Minnesota Statutes 1988, section 147.091, subdivision 7, is amended to read:

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Subd. 7. **TAX CLEARANCE CERTIFICATE.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a license if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivision 1, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 4. Minnesota Statutes 1988, section 148.10, subdivision 5, is amended to read:

Subd. 5. **TAX CLEARANCE CERTIFICATE.** (a) In addition to the grounds provided in subdivision 1, the board may not issue or renew a license to practice

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chiropractic if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivisions 3 and 4, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants of a license to practice chiropractic to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants for a license to practice chiropractic, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 5. Minnesota Statutes 1988, section 148B.06, subdivision 3, is amended to read:

Subd. 3. **INFORMATION REQUIRED.** The boards shall require all regulated individuals or applicants to provide their social security number and Minnesota business identification number on all license or filing applications. Upon

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request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all regulated individuals and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the individuals and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 6. Minnesota Statutes 1988, section 150A.08, subdivision 9, is amended to read:

Subd. 9. **TAX CLEARANCE CERTIFICATE.** (a) In addition to the grounds provided in subdivision 1 and notwithstanding subdivision 3, the board may not issue or renew a license to practice dentistry if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivision 8, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants for a license to practice dentistry to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list

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of all licensees and applicants for a license to practice dentistry including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 7. Minnesota Statutes 1988, section 171.31, is amended to read:

171.31 PERSONS RECEIVING BENEFITS FOR BLINDNESS, DISCOVERY OF INFORMATION.

The commissioner of public safety, in order to promote highway safety by restricting driving privileges to those persons meeting accepted visual acuity standards, may request and shall receive information concerning the identity and whereabouts of any person who has applied for or received any type of welfare, licensing or other benefits for the blind or nearly blind, from the records of all departments, boards, bureaus or other agencies of this state except the department of revenue, and they shall provide such information notwithstanding the provisions of section 268.12, subdivision 12, or any other existing law or rule to the contrary, except that section ~~290.61~~ 270B.02, subdivision 1, prohibits disclosure of information by the commissioner of revenue.

Sec. 8. Minnesota Statutes 1988, section 176.186, is amended to read:

176.186 RECORDS FROM OTHER STATE AGENCIES.

Notwithstanding any other state law to the contrary except ~~section 290.61 chapter 270B~~, the commissioner may obtain from the department of jobs and training, and office of the secretary of state, or any other state agency, upon request, names or lists of employers doing business in the state. This information shall be treated by the commissioner in the manner provided by chapter 13 and shall be used only for insurance verification by the commissioner.

Sec. 9. Minnesota Statutes 1988, section 176.231, subdivision 9, is amended to read:

Subd. 9. **USES WHICH MAY BE MADE OF REPORTS.** Reports filed with the commissioner under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics. These reports are available to the department of revenue for use in enforcing Minnesota income tax and property tax refund laws, and the information shall be protected as provided in ~~section 290.61 or 290A.17~~ chapter 270B.

The division or office of administrative hearings or workers' compensation court of appeals may permit the examination of its file by the employer, insurer, employee, or dependent of a deceased employee or any person who furnishes written authorization to do so from the employer, insurer, employee, or dependent of a deceased employee. Reports filed under this section and other infor-

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mation the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 10. Minnesota Statutes 1988, section 256.978, is amended to read:

256.978 LOCATION OF PARENTS DESERTING THEIR CHILDREN, ACCESS TO RECORDS.

The commissioner of human services, in order to carry out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children, may request information from the records of all departments, boards, bureaus or other agencies of this state, which shall, notwithstanding the provisions of section ~~290.64~~, 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers and utility companies doing business in this state shall provide information upon written request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support. A request for this information may be made to an employer when there is reasonable cause to believe that the subject of the inquiry is or was employed by the employer where the request is made. The request must include a statement that reasonable cause exists. Information to be released by utility companies is restricted to place of residence. Information to be released by employers is restricted to place of residence, employment status, and wage information. Information relative to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of support may be requested and used or transmitted by the commissioner pursuant to the authority conferred by this section. The commissioner of human services may make such information available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents who have, or appear to have, deserted their children. Any person who, pursuant to this section, obtains information from the department of revenue the confidentiality of which is protected by law shall not divulge the information except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

Sec. 11. Minnesota Statutes 1988, section 270.052, is amended to read:

270.052 AGREEMENT WITH INTERNAL REVENUE SERVICE.

~~Notwithstanding sections 290.64 and 290A.17,~~ Pursuant to section 270B.12, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service, if the Internal Revenue Service agrees to identify taxpayers who have refunds due from the Internal Revenue Service and liabilities owing to the department of revenue. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department of revenue,

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and the department of revenue may levy against refunds to be paid by the Internal Revenue Service.

Sec. 12. Minnesota Statutes 1988, section 270.064, is amended to read:

270.064 REQUESTING ASSISTANCE IN CRIMINAL TAX INVESTIGATIONS.

If the commissioner of revenue has reason to believe that a criminal violation of the state tax laws has occurred, the commissioner may request the attorney general or the prosecuting authority of any county to assist in a criminal tax investigation and may disclose return information to the prosecuting authority relevant to the investigation ~~notwithstanding the provisions of section 290.61, 291.48, 297A.43, or 297B.12.~~

Sec. 13. Minnesota Statutes 1988, section 270.66, subdivision 3, is amended to read:

Subd. 3. **AGENCIES SHALL MAINTAIN RECORDS.** Notwithstanding any provision to the contrary, every person, organization, or corporation doing business (hereafter called vendor) with the state of Minnesota or any of its departments, agencies, or educational institutions including the University of Minnesota (all hereafter called agency) shall provide that agency with their social security number or Minnesota tax identification number. The agency shall maintain records of this information, and shall make these records available, on request, to the commissioner for the sole purpose of identifying people who have not filed state tax returns or who have not paid uncontested state tax liabilities (hereafter called delinquent taxpayer). When an agency is notified by the commissioner that a vendor is a delinquent taxpayer, payments shall not be made by the agency to the vendor until the commissioner notifies the agency that the vendor no longer is a delinquent taxpayer. Furthermore, if the vendor has an uncontested delinquent tax liability, the setoff provided in subdivision 1 may be implemented. The commissioner shall determine that a vendor no longer is a delinquent taxpayer when the vendor has filed all delinquent state tax returns, paid all uncontested state tax liabilities or entered into an agreement with the commissioner which provides for the payment of these liabilities. ~~The commissioner may notify an agency concerning a vendor, notwithstanding the provisions of section 290.61 or 297A.43.~~

Sec. 14. Minnesota Statutes 1988, section 270.72, subdivision 4, is amended to read:

Subd. 4. **LICENSING AUTHORITY; DUTIES.** All licensing authorities must require the applicant to provide the applicant's social security number and Minnesota business identification number on all license applications. Upon request of the commissioner, the licensing authority must provide the commissioner with a list of all applicants, including the name, address, business name and address, social security number, and business identification number of each applicant. The commissioner may request from a licensing authority a list of

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the applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner may release information necessary to accomplish the purpose of this section.~~

Sec. 15. Minnesota Statutes 1988, section 270.73, subdivision 1, is amended to read:

Subdivision 1. **POSTING, NOTICE.** ~~Notwithstanding sections 290.61 and 297A.43,~~ Pursuant to section 270B.12, subdivision 4, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all taxpayers who are required to withhold or collect the tax imposed by section 290.92 or 297A.02 and who are 30 days or more delinquent in either filing a tax return or paying the tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Sec. 16. Minnesota Statutes 1988, section 270A.11, is amended to read:

270A.11 DATA PRIVACY.

~~Notwithstanding sections 290.61 and 290A.17,~~ Private and confidential data on individuals may be exchanged among the department, the claimant agency, and the debtor as necessary to accomplish and effectuate the intent of sections 270A.01 to 270A.12, as provided by section 13.05, subdivision 4, clause (b). The department may disclose to the claimant agency only the debtor's name, address, social security number and the amount of the refund. Any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, shall be subject to the civil and criminal penalties of ~~sections 13.09 and 290.61~~ section 270B.18.

Sec. 17. Minnesota Statutes 1988, section 290.081, is amended to read:

290.081 INCOME OF NONRESIDENTS, RECIPROACITY.

(a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein.

(b) When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of clause (a) shall not

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apply. As long as the provisions of clause (a) apply between Minnesota and Wisconsin, the provisions of clause (a) shall apply to any individual who is domiciled in Wisconsin.

(c) For the purposes of clause (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without clause (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without clause (a), or vice versa, then the state with the net revenue loss resulting from clause (a) shall receive from the other state the amount of such loss. This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due on any delinquent amounts.

If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair. Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

~~Notwithstanding the provisions of section 290.61,~~ The commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

Sec. 18. Minnesota Statutes 1988, section 290.174, is amended to read:

290.174 INTERSTATE AUDITS.

Article VIII of the multistate tax compact relating to interstate audits shall be in force in and with respect to the state of Minnesota. For purposes of ~~sections 290.61 and 297A.43~~ chapter 270B, the Multistate Tax Commission will be considered to be a state for purposes of auditing corporate sales, excise, and income tax returns.

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

Sec. 19. Minnesota Statutes 1988, section 290.371, subdivision 5, is amended to read:

Subd. 5. **FAILURE TO FILE TIMELY REPORT.** (a) Any corporation required to file a notice of business activities report does not have any cause of action upon which it may bring suit under Minnesota law unless the corporation has filed a notice of business activities report.

(b) The failure of a corporation to file a timely report prevents the use of the courts in this state, except regarding activities and property described in section 290.015, subdivision 3, paragraph (b), for all contracts executed and all causes of action that arose at any time before the end of the last accounting period for which the corporation failed to file a required report.

(c) The court in which the issues arise has the power to excuse the corporation for its failure to file a report when due, and restore the corporation's cause of action under the laws of this state, if the corporation has paid all taxes, interest, and civil penalties due the state for all periods, or provided for payment of them by adequate security or bond approved by the commissioner.

(d) ~~Notwithstanding the provisions of section 290.61,~~ Pursuant to section 270B.14, subdivision 6, the commissioner may acknowledge whether or not a particular corporation has filed with the commissioner reports or returns required by this chapter if the acknowledgment:

- (1) is to a party in a civil action;
- (2) relates to the filing status of another party in the same civil action; and
- (3) is in response to a written request accompanied by a copy of the summons and complaint in the civil action.

Sec. 20. Minnesota Statutes 1988, section 290.50, subdivision 6, is amended to read:

Subd. 6. **WITHHOLDING OF REFUNDS FROM CHILD SUPPORT DEBTORS.** Upon a finding by a court of this state that a person obligated to pay child support is delinquent in making payments, the amount of child support unpaid and owing including attorneys fees and costs incurred in ascertaining or collecting child support shall be withheld from a refund due the person under this section. The public agency responsible for child support enforcement or the parent or guardian of a child for whom the support, attorneys fees and costs are owed may petition the district or county court for an order providing for the withholding of the amount of child support, attorneys fees and costs unpaid and owing as determined by court order. The person from whom the refund may be withheld shall be notified of the petition pursuant to the rules of civil procedure prior to the issuance of an order pursuant to this subdivision. The order may be granted on a showing to the court that required support payments, attorneys fees and costs have not been made when they were due.

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

On order of the court and on payment of \$3 to the commissioner, the money shall be withheld by the commissioner from the refund due to the person obligated to pay and the amount withheld shall be remitted to the public agency responsible for child support enforcement or to the parent or guardian petitioning on behalf of the child, provided that any delinquent tax obligations of the taxpayer owed to the revenue department shall be satisfied first. Any amount received by the responsible public agency or the petitioning parent or guardian in excess of the amount of public assistance expended for the benefit of the child to be supported, or the amount of any support, attorneys fees and costs that had been the subject of the claim pursuant to this subdivision which has been paid by the taxpayer prior to the diversion of the refund, shall be remitted to the person entitled to the money. If the refund is based on a joint return, the portion of the refund that shall be remitted to the petitioner shall be the proportion of the total refund that equals the proportion of the total federal adjusted gross income of the spouses that is the federal adjusted gross income of the spouse who is delinquent in making the child support payments. A petition filed pursuant to this subdivision shall be in effect with respect to any refunds due under this section until the support money, attorneys fees and costs have been paid in full or the court orders the commissioner to discontinue withholding the money from the refund due the person obligated to pay the support, attorneys fees and costs. If a petition is filed pursuant to this subdivision and a claim is made pursuant to chapter 270A with respect to the same individual's refund and notices of both are received prior to the time when payment of the refund is made on either claim, the claim relating to the liability that accrued first in time shall be paid first; any amount of the refund remaining shall then be applied to the other claim. ~~The provisions of section 290.61 shall not prohibit the exchange of information among the department, the petitioner, and the court to the extent necessary to accomplish the intent of this subdivision.~~

Sec. 21. Minnesota Statutes 1988, section 290.523, subdivision 1, is amended to read:

Subdivision 1. **WILLFUL UNDERSTATEMENT OF LIABILITY.** If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of \$500 with respect to the return or claim. The penalty under this section may not be assessed against the employer of an income tax preparer unless the employer was actively involved in the willful attempt to understate the liability for a tax. This penalty shall be considered to be an income tax liability and may be assessed at any time as provided in section 290.49, subdivision 6. In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax, the burden of proof in respect of the issue shall be upon the commissioner, and the return of the taxpayer may be disclosed to the income tax return preparer ~~notwithstanding section 290.61.~~

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

Sec. 22. Minnesota Statutes 1988, section 290.91, is amended to read:

290.91 DESTRUCTION OF RETURNS.

The commissioner of revenue is hereby authorized to destroy all tax returns, required under this chapter or chapter 290A, including audit reports, orders and correspondence relating thereto, which have been on file in the commissioner's office for a period to be determined by the commissioner. The commissioner may make copies of such returns, orders or correspondence by microfilm, photostat or other similar means and may immediately destroy the original documents from which such copies have been made. Such copies, when certified to by the commissioner, shall be admissible in evidence in the same manner and be given the same effect as the original documents destroyed.

The commissioner may destroy correspondence and documents contained in the files of the division which do not relate specifically to any tax return.

Notwithstanding the above provisions ~~(or the provisions of section 290.61 or 290A.17)~~ the commissioner may, utilizing such safeguards as the commissioner in the commissioner's discretion deems necessary, (1) employ a commercial photographer for the purpose of developing microfilm of returns or other documents, or (2) employ a vendor for the purpose of obtaining the vendor's services an example of which is the preparation of income tax return labels.

Sec. 23. Minnesota Statutes 1988, section 290.92, subdivision 5a, is amended to read:

Subd. 5a. VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL.

(1) An employer shall submit to the commissioner a copy of any withholding exemption certificate or any affidavit of residency received from an employee on which the employee claims any of the following:

(a) a total number of withholding exemptions in excess of ten or a number prescribed by the commissioner, or

(b) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates and affidavits of residency required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that the employer is required to submit them to the Internal Revenue Service.

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(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify entitlement to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, to verify nonresidency. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to the commissioner, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. ~~Notwithstanding the provisions of section 290.61,~~ Pursuant to section 270B.06, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

However, where the commissioner has reasonable grounds for believing that the employee is about to leave the state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, ~~notwithstanding section 290.61,~~ pursuant to section 270B.06, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 24. Minnesota Statutes 1988, section 290.92, subdivision 17, is amended to read:

Subd. 17. **RECIPROCAL ARRANGEMENT WITH OTHER STATES.** The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of income tax at source on wages for the purpose of promoting fair and equitable administration of such acts and to eliminate duplicate withholding. ~~Notwithstanding the provisions of section 290.61~~ Pursuant to section 270B.12, subdivision 1, the commissioner may furnish information on a reciprocal basis to the taxing officials of another state in order to implement the purposes set forth above.

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

Sec. 25. Minnesota Statutes 1988, section 290.92, subdivision 26, is amended to read:

Subd. 26. **EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INCURATE.** (a) If, in the case of any reportable payment, (1) the payee fails to furnish the payee's social security account number to the payor, or (2) the commissioner notifies the payor that the social security account number furnished by the payee is incorrect, then the payor shall deduct and withhold from the payment a tax equal to ten percent of the payment.

(b)(1) In the case of any failure described in clause (a) (1), clause (a) shall apply to any reportable payment made by the payor during the period during which the social security account number has not been furnished.

(2) In any case where there is a notification described in clause (a)(2), clause (a) shall apply to any reportable payment made by the payor (i) after the close of the 30th day after the day on which the payor received the notification, and (ii) before the payee furnishes another social security account number.

(3)(i) Unless the payor elects not to have this subparagraph apply with respect to the payee, clause (a) shall also apply to any reportable payment made after the close of the period described in paragraph (1) or (2) (as the case may be) and before the 30th day after the close of the period.

(ii) If the payor elects the application of this subparagraph with respect to the payee, clause (a) shall also apply to any reportable payment made during the 30-day period described in paragraph (2).

(iii) The payor may elect a period shorter than the grace period set forth in subparagraph (i) or (ii) as the case may be.

(c) The provisions of section 3406 of the Internal Revenue Code of 1986, as amended through December 31, 1987, shall apply and shall govern when withholding shall be required and the definition of terms. The term "reportable payment" shall include only those payments for personal services. No tax shall be deducted or withheld under this subdivision with respect to any amount for which withholding is otherwise required under this section. For purposes of this section, payments which are subject to withholding under this subdivision shall be treated as if they were wages paid by an employer to an employee and amounts deducted and withheld under this subdivision shall be treated as if deducted and withheld under subdivision 2a.

(d) Whenever the commissioner notifies a payor under this subdivision that the social security account number furnished by any payee is incorrect, ~~notwithstanding section 290.61,~~ the commissioner shall at the same time furnish a copy of the notice to the payor, and the payor shall promptly furnish the copy to the payee. If the commissioner notifies a payor under this subdivision that the social security account number furnished by any payee is incorrect and the

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payee subsequently furnishes another social security account number to the payor, the payor shall promptly notify the commissioner of the other social security account number furnished.

Sec. 26. Minnesota Statutes 1988, section 290A.112, subdivision 1, is amended to read:

Subdivision 1. **WILLFUL OVERSTATEMENT OF CLAIM.** If any part of an excessive claim with respect to any property tax refund return is due to a willful attempt in any manner to overstate the claim for relief allowed under this chapter by a person who is a property tax refund return preparer with respect to the return, the person shall pay to the commissioner a penalty of \$500 with respect to the return. The penalty under this section may not be assessed against the employer of a property tax refund return preparer unless the employer was actively involved in the willful attempt to overstate the claim for property tax refund. This penalty shall be considered to be an income tax liability and may be assessed at any time as provided in section 290.49, subdivision 6. In any proceeding involving the issue of whether or not a property tax refund return preparer has willfully attempted in any manner to overstate the property tax refund claim, the burden of proof in respect of the issue shall be upon the commissioner and the claim of the claimant may be disclosed to the property tax refund return preparer ~~notwithstanding section 290A.17.~~

Sec. 27. Minnesota Statutes 1988, section 297A.07, is amended to read:

297A.07 REVOCATION OF PERMITS.

Whenever any person fails to comply with any provision of sections 297A.01 to 297A.44 or any rule of the commissioner adopted under sections 297A.01 to 297A.44, the commissioner, upon hearing, after giving the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring the person to show cause why the permit or permits should not be revoked, may for reasonable cause, revoke or suspend any one or more of the permits held by such person. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency. The commissioner shall not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the aforementioned provisions and rules. The commissioner may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by section 297A.28 as is reasonably necessary to insure compliance with the aforementioned provisions and rules.

~~Notwithstanding the provisions of section 297A.43, the commissioner may disclose information identifying the holder of a revoked permit and the basis for the revocation.~~

Sec. 28. Minnesota Statutes 1988, section 326.20, subdivision 4, is amended to read:

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Subd. 4. **TAX CLEARANCE CERTIFICATE.** (a) Notwithstanding subdivisions 1 and 2, the board may not issue or renew a license under sections 326.165 to 326.231 if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year. ~~Notwithstanding sections 290.61 and 297A.43, the commissioner of revenue may release information necessary to accomplish the purpose of this subdivision.~~

Sec. 29. Minnesota Statutes 1988, section 469.173, subdivision 5, is amended to read:

Subd. 5. **INFORMATION SHARING.** ~~Notwithstanding the provisions of sections 290.61 and 297A.43~~ Pursuant to section 270B.14, subdivision 3, the commissioner of revenue may share information with the commissioner or with

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a municipality receiving an enterprise zone designation, insofar as necessary to administer the funding limitations provided by section 469.169, subdivision 7.

Sec. 30. **EFFECTIVE DATE.**

This article is effective July 1, 1989.

Presented to the governor May 16, 1989

Signed by the governor May 17, 1989, 6:40 p.m.

CHAPTER 185—S.F.No. 1191

An act relating to political subdivisions; permitting participation in risk retention groups; amending Minnesota Statutes 1988, section 471.981, by adding a subdivision.

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

Section 1. Minnesota Statutes 1988, section 471.981, is amended by adding a subdivision to read:

Subd. 6. RISK RETENTION GROUPS. A political subdivision or pool may purchase environmental protection coverage from a risk retention group operating under United States Code, title 15, sections 3901 to 3906, and may purchase nonassessable stock of the group if stock ownership is a prerequisite for participation.

Presented to the governor May 16, 1989

Signed by the governor May 17, 1989, 6:43 p.m.

CHAPTER 186—S.F.No. 218

An act relating to health; amending the bill of rights for patients and residents of health facilities; requiring health facilities to notify family members of the admission of a patient or resident under certain circumstances; amending Minnesota Statutes 1988, section 144.651, subdivision 10.

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

Section 1. Minnesota Statutes 1988, section 144.651, subdivision 10, is amended to read:

Subd. 10. PARTICIPATION IN PLANNING TREATMENT; NOTIFICATION OF FAMILY MEMBERS. (a) Patients and residents shall have the

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