

ONE HUNDRED EIGHTH DAY

St. Paul, Minnesota, Tuesday, March 19, 1974.

The Senate met at 11:00 o'clock a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Hansen, Baldy imposed a call of the Senate. The following Senators answered to their names:

Arnold	Doty	Kirchner	Patton	Tennessen
Berg	Dunn	Kowalczyk	Perpich, A. J.	Ueland
Bernhagen	Fitzsimons	Larson	Perpich, G.	Wegener
Borden	Frederick	Laufenburger	Pillsbury	Willet
Chmielewski	Hansen, Baldy	Moe	Purfeerst	
Coleman	Hansen, Mel	Olhoft	Renneke	
Conzemius	Hanson, R.	Olson, A. G.	Solon	
Davies	Jensen	Olson, J. L.	Spear	

The Sergeant-at-Arms was instructed to bring in the absent members.

Prayer by the Chaplain.

The roll being called, the following Senators answered to their names:

Arnold	Doty	Kirchner	Novak	Schrom
Ashbach	Dunn	Knutson	Ogdahl	Solon
Bang	Fitzsimons	Kowalczyk	Olhoft	Spear
Berg	Frederick	Krieger	Olson, A. G.	Stassen
Bernhagen	Gearty	Larson	Olson, H. D.	Stokowski
Blatz	Hansen, Baldy	Laufenburger	Olson, J. L.	Tennessen
Borden	Hansen, Mel	Lewis	Patton	Thorup
Brown	Hanson, R.	Lord	Perpich, A. J.	Ueland
Chenoweth	Humphrey	McCutcheon	Perpich, G.	Wegener
Chmielewski	Jensen	Milton	Pillsbury	Willet
Coleman	Josefson	Moe	Purfeerst	
Conzemius	Keefe, J.	Nelson	Renneke	
Davies	Keefe, S.	North	Schaaf	

Quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Messrs. Anderson, Kleinbaum, Hughes, O'Neill and Sillers were excused from the Session of today. Mr. Frederick was excused from the Session of today beginning at 12:15 o'clock p.m. Mr.

Patton was excused from the Session of today beginning at 12:30 o'clock p.m. Mr. Josefson was excused from the Session of today beginning at 5:15 p.m. Mr. Olson, J. L. was excused from the Session of today, beginning at 5:30 o'clock p.m.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

February 18, 1974

The Honorable Alec Olson
President of the Senate
State of Minnesota

Dear Sir:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

David F. Zentner, 805 1st American National Bank Building, Duluth, St. Louis County, has been appointed by me to the Pollution Control Agency, effective February 18, 1974, for a term expiring February 15, 1978.

Dr. Howard A. Andersen, 1072 Plummer Lane, Rochester, Olmsted County, has been appointed by me to the Pollution Control Agency, effective February 18, 1974, for a term expiring February 15, 1978.

Sincerely,
Wendell R. Anderson, Governor

Which appointments were referred to the Committee on Rules and Administration.

March 18, 1974

The Honorable Alec G. Olson
President of the Senate

Sir:

I have the honor to inform you that I have received, approved, signed and deposited in the office of the Secretary of State the following Senate File:

S. F. No. 3389. An act relating to Thief River Falls; providing for special elections to fill offices in certain cases.

Sincerely,
Wendell R. Anderson, Governor

APPOINTMENTS

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 2759, pursuant to the request of the Senate:

Messrs. Chenoweth, Stokowski and Ogdahl.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 2933, pursuant to the request of the Senate:

Messrs. Kleinbaum; Perpich, G. and Pillsbury.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 1810, pursuant to the request of the House:

Messrs. Conzemius; Keefe, J.; Hansen, Baldy; Borden and Frederick.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 3002, pursuant to the request of the House:

Messrs. Ashbach; Hanson, R. and Thorup.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 2990, pursuant to the request of the House:

Messrs. Kleinbaum, Schrom and Brown.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned:

S. F. Nos. 2015, 2252, 2350, 3212, 3406, 2715, 2739, 3129, 3325, 3467, 2005, 2515, 2516, 2611, 2814, 2668, 2820, 2871, 2661, 2850, 3247, 3422, 1735, 2477, 2504, 2995, 3152, 2084, 2558, 3119, 3115, 3189, 1104, 2161, 3002, 3009, 3079 and 3276.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2794: A bill for an act relating to the safety of school children; regulation of school bus transportation; amending Minnesota Statutes 1971, Sections 169.45; and 169.451, by adding a subdivision.

Senate File No. 2794 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Purfeerst moved that the Senate do now concur in the amendments by the House to S. F. No. 2794 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2794 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	Ogdahl	Schrom
Ashbach	Dunn	Knutson	Olhoft	Solon
Bang	Fitzsimons	Kowalczyk	Olson, A. G.	Spear
Berg	Frederick	Krieger	Olson, H. D.	Stassen
Bernhagen	Gearty	Larson	Olson, J. L.	Stokowski
Blatz	Hansen, Baldy	Lewis	Patton	Tennessen
Borden	Hansen, Mel	Lord	Perpich, A. J.	Thorup
Brown	Hanson, R.	McCutcheon	Perpich, G.	Ueland
Chmielewski	Humphrey	Milton	Pillsbury	Wegener
Coleman	Jensen	Moe	Purfeerst	Willet
Conzernius	Josefson	Nelson	Renneke	
Davies	Keefe, S.	Novak	Schaaf	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1253: A bill for an act relating to port authorities; authorizing segregation of tax increments in industrial development districts to pay the cost of redevelopment of marginal land therein; amending Minnesota Statutes 1971, Section 458.192, Subdivision 1, and by adding subdivisions.

Senate File No. 1253 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Gearty moved that the Senate do now concur in the amendments by the House to S. F. No. 1253 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 1253 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 52 and nays 6, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Keefe, J.	Nelson	Schrom
Ashbach	Dunn	Keefe, S.	Novak	Solon
Bang	Fitzsimons	Kirchner	Ogdahl	Spear
Berg	Frederick	Knutson	Olson, H. D.	Stassen
Bernhagen	Gearty	Krieger	Olson, J. L.	Stokowski
Blatz	Hansen, Baldy	Larson	Patton	Thorup
Borden	Hansen, Mel	Lewis	Perpich, A. J.	Ueland
Brown	Hanson, R.	Lord	Pillsbury	Wegener
Chmielewski	Humphrey	McCutcheon	Purfeerst	
Coleman	Jensen	Milton	Renneke	
Conzemius	Josefson	Moe	Schaff	

Those who voted in the negative were:

Davies	Olson, A. G.	Perpich, G.	Tennessen	Willet
Olthoff				

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3331: A bill for an act relating to the termination of teachers due to discontinuance of position or lack of pupils in Independent School District No. 709, St. Louis county.

Senate File No. 3331 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate do now concur in the amendments by the House to S. F. No. 3331 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3331 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Keefe, J.	Moe	Purfeerst
Ashbach	Doty	Keefe, S.	Nelson	Schaaf
Bang	Dunn	Kirchner	Novak	Schrom
Berg	Fitzsimons	Knutson	Ogdahl	Solon
Bernhagen	Frederick	Kowalczyk	Olhoft	Spear
Blatz	Gearty	Krieger	Olson, A. G.	Stokowski
Borden	Hansen, Baldy	Larson	Olson, H. D.	Tennessen
Brown	Hansen, Mel	Laufenburger	Olson, J. L.	Thorup
Chenoweth	Hanson, R.	Lewis	Patton	Ueland
Chmielewski	Humphrey	Lord	Perpich, A. J.	Wegener
Coleman	Jensen	McCutcheon	Perpich, G.	Willet
Conzemius	Josefson	Milton	Pillsbury	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2830: A bill for an act relating to St. Louis county; authorizing the issuance of additional on-sale liquor licenses.

Senate File No. 2830 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate do now concur in the amendments by the House to S. F. No. 2830 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2830: A bill for an act relating to St. Louis county and Koochiching county; authorizing the issuance of additional on-sale liquor licenses.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 51 and nays 7, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Keefe, S.	Nelson	Spear
Ashbach	Dunn	Kirchner	Ogdahl	Stassen
Bang	Fitzsimons	Knutson	Olson, A. G.	Stokowski
Berg	Frederick	Kowalczyk	Olson, H. D.	Tennessen
Bernhagen	Gearty	Krieger	Patton	Thorup
Borden	Hansen, Baldy	Larson	Perpich, A. J.	Wegener
Brown	Hansen, Mel	Laufenburger	Perpich, G.	Willet
Chenoweth	Hanson, R.	Lewis	Pillsbury	
Chmielewski	Humphrey	Lord	Purfeerst	
Coleman	Jensen	McCutcheon	Schaaf	
Conzenius	Keefe, J.	Milton	Solon	

Those who voted in the negative were:

Blatz	Josefson	Olhoft	Olson, J. L.	Renneke
Doty	Novak			

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2576: A bill for an act relating to planning, development, zoning; authorizing all counties to carry on planning, development and zoning activities; setting forth authorities in land and water use controls; amending Minnesota Statutes 1971, Sections 394.22, Subdivision 6 and by adding subdivisions; 394.23; 394.24, Subdivisions 1 and 2 and by adding a subdivision; 394.25, Subdivisions 1, 2, 3, 4, 7 and 8 and by adding subdivisions; 394.26, Subdivision 2 and by adding subdivisions; 394.27, Subdivisions 1, 2, 5 and 6 and by adding subdivisions; 394.29; 394.30, Subdivisions 1 and 3 and by adding subdivisions; 394.32, Subdivisions 2 and 3; 394.33; 394.35; 394.36, Subdivision 1 and by adding a subdivision; 394.37, Subdivision 1; 375.51, Subdivisions 1, 2 and 3; 599.13; Chapter 394 by adding sections; repealing Minnesota Statutes 1971, Sections 394.06 to 394.17; 394.21, Subdivision 2; 394.22, Subdivision 5; 394.25, Subdivisions 5 and 6; 394.26, Subdivisions 1 and 3; 394.30, Subdivision 2; 394.31; 394.32, Subdivision 4; and 396.01 to 396.21.

Senate File No. 2576 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

Mr. Dunn moved that the Senate do not concur in the amendments by the House to S. F. No. 2576 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3060: A bill for an act relating to hazardous buildings; removal or correction of hazardous buildings; enforcement; amending Minnesota Statutes 1971, Sections 463.151; 463.21; and Chapter 463, by adding sections.

Senate File No. 3060 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Chmielewski moved that the Senate do now concur in the amendments by the House to S. F. No. 3060 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3060: A bill for an act relating to hazardous buildings or conditions; removal or correction; enforcement; amending Minnesota Statutes 1971, Sections 463.151; 463.21; and Chapter 463, by adding sections.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 56 and nays 2, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	Novak	Spear
Ashbach	Dunn	Knutson	Olhoft	Stassen
Bang	Fitzsimons	Kowalczyk	Olson, A. G.	Stokowski
Berg	Frederick	Krieger	Olson, H. D.	Tennessen
Bernhagen	Gearty	Larson	Patton	Thorup
Blatz	Hansen, Mel	Laufenburger	Perpich, A. J.	Ueland
Borden	Hanson, R.	Lewis	Perpich, G.	Wegener
Brown	Humphrey	Lord	Pillsbury	Willet
Chenoweth	Jensen	McCutcheon	Purfeerst	
Chmielewski	Josefson	Milton	Renneke	
Coleman	Keefe, J.	Moe	Schaaf	
Davies	Keefe, S.	Nelson	Solon	

Messrs. Hansen, Baldy; and Schrom voted in the negative.

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 735: A bill for an act relating to elections; permitting the contest of elections under certain circumstances; amending Minnesota Statutes 1971, Section 209.02, by adding a subdivision.

Senate File No. 735 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Hansen, Mel moved that the Senate do now concur in the amendments by the House to S. F. No. 735 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 735: A bill for an act relating to elections; permitting the contest of elections under certain circumstances; amending Minnesota Statutes 1971, Sections 209.02, by adding a subdivision; 204.29, Subdivisions 2 and 3; 204.31, Subdivisions 2 and 3; and 204.32, Subdivision 1.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 51 and nays 6, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Keefe, S.	Nelson	Schaaf
Ashbach	Doty	Kirchner	Novak	Solon
Bang	Dunn	Kowalczyk	Ogdahl	Spear
Berg	Fitzsimons	Krieger	Olhoft	Stokowski
Bernhagen	Frederick	Larson	Olson, H. D.	Thorup
Blatz	Gearty	Laufenburger	Olson, J. L.	Ueland
Borden	Hansen, Mel	Lewis	Patton	Wegener
Brown	Hanson, R.	Lord	Perpich, A. J.	
Chenoweth	Humphrey	McCutcheon	Pillsbury	
Coleman	Jensen	Milton	Purfeerst	
Conzemius	Josefson	Moe	Renneke	

Those who voted in the negative were:

Chmielewski	Olson, A. G.	Perpich, G.	Schrom	Willet
Hansen, Baldy				

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2136: A bill for an act relating to counties; providing standards for redistricting of county boards and the appointment of redistricting commissions; amending Minnesota Statutes 1971, Chapter 375, by adding a section; repealing Minnesota Statutes 1971, Section 375.02.

Senate File No. 2136 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Milton moved that the Senate do now concur in the amendments by the House to S. F. No. 2136 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2136 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 55 and nays 3, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	Nelson	Renneke
Ashbach	Dunn	Knutson	Novak	Schaaf
Bang	Frederick	Kowalczyk	Ogdahl	Schrom
Berg	Gearty	Krieger	Olhoft	Solon
Bernhagen	Hansen, Baldy	Larson	Olson, A. G.	Spear
Brown	Hansen, Mel	Laufenburger	Olson, H. D.	Stassen
Chenoweth	Hanson, R.	Lewis	Patton	Stokowski
Chmielewski	Humphrey	Lord	Perpich, A. J.	Thorup
Coleman	Jensen	McCutcheon	Perpich, G.	Ueland
Conzemius	Keefe, J.	Milton	Pillsbury	Wegener
Davies	Keefe, S.	Moe	Purfeerst	Willet

Messrs. Fitzsimons, Josefson and Olson, J. L. voted in the negative.

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3035:

H. F. No. 3035: A bill for an act relating to mass transit; approving the bus service expansion report and providing funds therefor; setting bus fares; amending Minnesota Statutes 1971, Section 473.09 and Minnesota Statutes, 1973 Supplement, Section 473A.111, Subdivision 1.

And the House respectfully requests that a Conference Committee of five members be appointed thereon:

Tomlinson, Voss, Salchert, Bell and Wolcott have been appointed as such committee on the part of the House.

House File No. 3035 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives
Transmitted March 18, 1974

Mr. Chenoweth moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 3035, and

that a Conference Committee of 5 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1759: A bill for an act relating to outdoor recreation, providing for a regional recreation open space system; establishing a metropolitan parks and open space commission; authorizing the issuance of bonds and the levy of taxes; authorizing grants to park districts, counties and municipalities for acquisition and development of the system; and appropriating money therefor.

Senate File No. 1759 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

Mr. Chenoweth moved that the Senate do not concur in the amendments by the House to S. F. No. 1759 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3123: A bill for an act relating to commerce; regulating health clubs, social referral clubs and buying clubs; permitting members to cancel contracts under certain circumstances; limiting the term of membership; providing for bonding; and prescribing penalties.

Senate File No. 3123 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

Mr. Keefe, S. moved that the Senate do not concur in the amendments by the House to S. F. No. 3123 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1769: A bill for an act relating to the practice of chiropractic; prescribing minimum academic requirements for licensure and renewal of licensure; amending Minnesota Statutes 1971, Section 148.06.

Senate File No. 1769 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

Mr. Laufenburger moved that the Senate do not concur in the amendments by the House to S. F. No. 1769 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2367: A bill for an act authorizing the issuance of bonds by Independent School District No. 625.

Senate File No. 2367 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

Mr. Kirchner moved that S. F. No. 2367 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1835:

H. F. No. 1835: A bill for an act regulating public utilities furnishing at retail natural, manufactured or mixed gas, or electric service; prescribing the duties of the public service commission in relation thereto; prescribing penalties; increasing the membership of the public service commission; appropriating money; amending Minnesota Statutes 1971, Section 216A.03, Subdivision 1.

And the House respectfully requests that a Conference Committee of three members be appointed thereon:

Parish, Kelly and Newcome have been appointed as such committee on the part of the House.

House File No. 1835 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 18, 1974

Mr. Olson, A. G. moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 1835, and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3571:

H. F. No. 3571: A bill for an act relating to the legislature; providing for the filing of reports with the legislature; amending Minnesota Statutes 1971, Chapter 3, by adding a section.

And the House respectfully requests that a Conference Committee of three members be appointed thereon:

Anderson, I.; Sabo and Dirlam have been appointed as such committee on the part of the House.

House File No. 3571 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 18, 1974

Mr. Coleman moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 3571, and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on H. F. No. 1866:

Messrs. Moe, Tennessen and Kirchner. The motion prevailed.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2984: A bill for an act relating to workmen's compensation; excluded employments, amending Minnesota Statutes, 1973 Supplement, Section 176.041, Subdivision 1.

Senate File No. 2984 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Coleman moved that the Senate do now concur in the amendments by the House to S. F. No. 2984 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2984 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Keefe, S.	Olhoff	Schrom
Ashbach	Fitzsimons	Knutson	Olson, A. G.	Solon
Bang	Frederick	Kowalczyk	Olson, H. D.	Stassen
Berg	Gearty	Larson	Olson, J. L.	Stokowski
Bernhagen	Hansen, Baldy	Laufenburger	Patton	Thorup
Blatz	Hansen, Mel	Lord	Perpich, A. J.	Ueland
Chenoweth	Hanson, R.	McCutcheon	Perpich, G.	Wegener
Chmielewski	Humphrey	Milton	Pillsbury	Willet
Coleman	Jensen	Nelson	Purfeerst	
Cenzemius	Josefson	Novak	Renneke	
Doty	Keefe, J.	Ogdahl	Schaaf	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3311: A bill for an act relating to cities of the first class; the municipal housing and redevelopment act; authorizing a redevelopment company to be organized as a limited partnership; amending Minnesota Statutes 1971, Sections 462.421, Subdivision 20; and 462.605.

Senate File No. 3311 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

Mr. Chenoweth moved that the Senate do not concur in the amendments by the House to S. F. No. 3311 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H. F. Nos. 3239, 3267, 3159, 913 and 2644.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 18, 1974

FIRST READING OF HOUSE BILLS

H. F. No. 3239: A bill for an act relating to aeronautics; appropriating and transferring certain funds.

H. F. No. 3267: A bill for an act relating to aeronautics; reimbursement of municipalities for operational and maintenance costs of airports; amending Minnesota Statutes, 1973 Supplement, Section 360.305, Subdivision 4.

H. F. No. 3159: A bill for an act relating to the coordination and integration of human services; prescribing powers and duties of the state planning agency; appropriating money.

H. F. No. 913: A bill for an act relating to real estate taxes; increasing the rate of interest and penalties on delinquent real estate taxes; amending Minnesota Statutes 1971, Section 279.01.

H. F. No. 2644: A bill for an act relating to distinctions on the basis of sex; abolishing these distinctions in the law concerning changing of names; amending Minnesota Statutes 1971, Sections 259.10; 259.11; 517.08, Subdivision 3.

Which were read the first time and referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

Mr. Coleman moved that the Committee Reports at the Desk, with the exception of H. F. Nos. 210 and 3347 and those reports pertaining to Governor's appointments be now adopted. The motion prevailed.

Mr. Hughes from the Committee on Education, to which was re-referred

H. F. No. 210: A bill for an act relating to education; regulating the tenure of teachers and granting seniority rights; amending Minnesota Statutes 1971, Section 125.12, Subdivision 6.

Reports the same back with the recommendation that the printed bill be amended as follows:

Strike everything after the enacting clause and insert the following:

"Section 1. Minnesota Statutes, 1973 Supplement, Section 125.12, Subdivision 4, is amended to read:

Subd. 4. [TERMINATION OF CONTRACT AFTER PROBATIONARY PERIOD.] A teacher who has completed his probationary period in any school district, and who has not been discharged or advised of a refusal to renew his contract pursuant to subdivision 3, shall have a continuing contract with such district. Thereafter, the teacher's contract shall remain in full force and effect, except as modified by mutual consent of the board and the teacher, until terminated by a majority roll call vote of the full membership of the board, upon one of the grounds specified in subdivision 6 or *subdivision 6a or 6b*, or until the teacher is discharged pursuant to subdivision 8, or by the written resignation of the teacher submitted prior to April 1; provided, however, that if an agreement as to the terms and conditions of employment for the succeeding school year has not been adopted pursuant to the provisions of sections 179.61 to 179.77 prior to March 1, the teacher's right of resignation shall be extended to the 30th calendar day following the adoption of said contract in compliance with section 179.70, subdivision 2. Such written resignation by the teacher shall be effective as of June 30 if submitted prior to that date or, if submitted thereafter, shall be effective August 15, and the teachers' right of resignation for the school year then beginning shall cease on August 15. Before a teacher's contract is terminated by the board, the board shall notify the teacher in writing and state its ground for the proposed termination in reasonable detail together with a statement that the teacher may make a written request for a hearing before the board within 14 days after receipt of such notification. Within 14 days after receipt of this notification the teacher may make a written request for a hearing before the board and it shall be granted before final action is taken. If no hearing is requested within such period, it shall be deemed acquiescence by the teacher to the board's action. Such termination shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid. Such contract may be terminated at any time by mutual consent of the board and the teacher and this section shall not affect the powers of a board to suspend, discharge, or demote a teacher under and pursuant to other provisions of law.

Sec. 2. Minnesota Statutes 1971, Section 125.12, Subdivision 6, is amended to read:

Subd. 6. [GROUNDS FOR TERMINATION.] A continuing contract may be terminated, effective at the close of the school year, upon any of the following grounds:

- (a) Inefficiency;
- (b) Neglect of duty, or persistent violation of school laws, rules, regulations or directives;
- (c) Conduct unbecoming a teacher which materially impairs his educational effectiveness;

(d) Other good and sufficient grounds rendering the teacher unfit to perform his duties ; or .

(e) Discontinuance of position, lack of pupils, or merger of classes caused by consolidation of districts or otherwise, provided that in the event of a consolidation of school districts, continuing contract teachers on the staffs of participating districts shall be retained on the staff of the consolidated district in positions for which they are qualified under state law and state board regulations to the extent that such positions exist.

A contract shall not be terminated upon one of the grounds specified in clauses (a), (b), (c), or (d), unless the teacher shall have failed to correct the deficiency after being given written notice of the specific items of complaint and reasonable time within which to remedy them.

All evaluations and files generated within a school district relating to each individual teacher shall be available during regular school business hours to each individual teacher upon his written request. The teacher shall have the right to reproduce any of the contents of the files at the teacher's expense and to submit for inclusion in the file written information in response to any material contained therein; provided, however, a school district may destroy such files as provided by law.

Sec. 3. Minnesota Statutes 1971, Section 125.12, is amended by adding a subdivision to read:

Subd. 6a. [NEGOTIATED UNREQUESTED LEAVE OF ABSENCE.] The school board and the exclusive bargaining representative of the teachers may negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. Failing to successfully negotiate such a plan by the beginning date of a new master contract, the provisions of 6(b) shall apply. The provisions of Minnesota Statutes 179.72 shall not apply for the purposes of this subdivision.

Sec. 4. Minnesota Statutes 1971, Section 125.12, is amended by adding a subdivision to read:

Subd. 6b. [UNREQUESTED LEAVE OF ABSENCE.] The school board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave shall be effective at the close of the school year. In placing teachers on unrequested leave, the board shall be governed by the following provisions:

(a) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. No teacher who has acquired continuing contract rights shall be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is certified;

(b) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are certified in the inverse order in which they were employed by the school district. In the case of merger of classes caused by consolidation of districts or in the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are certified shall be negotiable;

(c) Notwithstanding clauses (a) and (b), if either the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights or the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority would place the district in violation of its affirmative action program, the district may retain the probationary teacher or the teacher with less seniority;

(d) Teachers placed on unrequested leave of absence shall be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are certified. Reinstatement shall be in the inverse order of placement on leave of absence. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year shall be negotiable;

(e) Teachers, other than probationary teachers, terminated under Minnesota Statutes 1971, Section 125.12, Subdivision 6, Clause (e), in the 1973-74 school year shall be reinstated to the positions from which they have been terminated or, if not available, to other available positions in the school district in fields in which they are certified. Reinstatement shall be in the order of seniority. The order of reinstatement of continuing contract teachers who have equal seniority and who are terminated under Minnesota Statutes 1971, Section 125.12, Subdivision 6, Clause (e) in the 1973-74 school year shall be negotiable. These teachers shall also be subject to clauses (f), (g), (h), (i) and (k) of this subdivision.

(f) No appointment of a new teacher shall be made while there is available, on unrequested leave, a teacher who is properly certified to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to him, that he may return to employment and that he will assume the duties of the position to which appointed on a future date determined by the board;

(g) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave;

(h) The unrequested leave of absence shall not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service;

(i) The unrequested leave of absence of a teacher who is not reinstated shall continue for a period of two years after which the right to reinstatement shall terminate;

(j) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 3 and 4 shall apply to placement on unrequested leave of absence;

(k) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment compensation if otherwise eligible.

Sec. 5. This act shall be effective on April 15, 1974."

Further, amend the title as follows:

Line 2 of the title, after "6" insert ", and by adding subdivisions; Minnesota Statutes, 1973 Supplement, Section 125.12, Subdivision 4"

And when so amended the bill do pass.

Pursuant to Joint Rule 20, the bill was re-referred to the Committee on Rules and Administration.

Mr. Hughes from the Committee on Education, to which was re-referred

H. F. No. 3347: A bill for an act relating to education; providing for biennial reports on the percentages of men, women and racial minorities in professional programs.

Reports the same back with the recommendation that the bill do pass.

Pursuant to Joint Rule 20, the bill was re-referred to the Committee on Rules and Administration.

Mr. Novak from the Committee on Finance, to which was re-referred

H. F. No. 858: A bill for an act relating to the organization and operation of state government; creating a department of transportation; prescribing its duties and responsibilities; amending Minnesota Statutes 1971, Sections 123.18, Subdivision 1; 123.39, Subdivision 1; and 473A.06, Subdivision 3; repealing Minnesota Statutes 1971, Sections 4.20; 161.03; and 360.014.

Reports the same back with the recommendation that the printed bill be amended as follows:

Page 6, line 33, strike "No such" and insert "The"

Page 6, line 35, strike "shall" and insert "may"

Page 6, line 36, strike "but that it shall" and insert "or it may"

Page 7, line 1, strike "shall" and insert "may"

Page 7, strike lines 22 through 27

Renumber the remaining sections accordingly

Page 8, line 18, strike "360.01" and insert "360.91"

Page 10, line 21, after "operation," insert "*which shall not be prior to July 1, 1975,*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

S. F. No. 3323: A bill for an act relating to the capitol area architectural and planning commission; appropriating money for a master plan implementation study.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, strike lines 27 and 28

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

H. F. No. 389: A bill for an act relating to public safety; fines and forfeited bail money from persons apprehended by the highway patrol; providing for the distribution and use of such money; amending Minnesota Statutes 1971, Section 299D.03, Subdivision 5.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Gearty from the Committee on Governmental Operations, to which were re-referred the following appointments:

CAPITOL AREA ARCHITECTURAL AND PLANNING COMMISSION

Thomas G. Reichert, 918 St. Germain, St. Cloud, Stearns County, appointed effective July 2, 1973, for a term expiring July 1, 1977.

COMMISSIONER OF FINANCE

Edward G. Ziegler, 510 South Owens, Stillwater, Washington County, appointed effective August 14, 1973, for a term that is coterminous with the Governor.

HOUSING FINANCE AGENCY

Clyde Pemble, 10904 Ridgewood Court, Burnsville, Dakota County, appointed effective January 1, 1974, for a term expiring January 1, 1979.

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION

John Borchert, Scandia, Washington County, appointed effective January 2, 1974, for a term expiring July 1, 1977.

Robert Burns, 10677 Cedar Heights Trail, Hastings, Washington County, appointed effective July 1, 1973, for a term expiring July 1, 1977.

James W. Johnson, Marine-on-St. Croix, Washington County, appointed effective July 1, 1973, for a term expiring July 1, 1977.

Mrs. Stanley Hubbard, St. Croix Beach, Washington County, appointed effective July 1, 1973, for a term expiring July 1, 1977.

Robert Nybo, Jr., Red Wing, Goodhue County, appointed effective July 1, 1973, for a term expiring July 1, 1977.

MUNICIPAL COMMISSION

Gerald Isaacs, 1835 Mechanic Avenue, St. Paul, Ramsey County, appointed effective November 5, 1973, for a term expiring June 30, 1979.

COMMISSIONER OF PERSONNEL

John W. Jackson, 2114 Juliet Avenue, St. Paul, Ramsey County, appointed effective September 28, 1973, for a term co-terminus with the Governor.

PERSONNEL BOARD

Edward LaFave, Jr., Morris, Stevens County, appointed effective November 26, 1973, for a term expiring January 1, 1975.

Edna Schwartz, 896 Cleveland South, St. Paul, Ramsey County, appointed effective November 26, 1973, for a term expiring January 1, 1975.

Cornell Moore, 2727 Dean Boulevard, Minneapolis, Hennepin County, appointed effective November 26, 1973, for a term expiring January 1, 1975.

Marie Larson, Kahler Hotel, 20 S.W. 2nd Avenue, Rochester, Olmsted County, appointed effective November 26, 1973, for a term expiring January 1, 1975.

Marcella Page, 1847 Woodcrest Drive, St. Paul, Ramsey County, appointed effective November 26, 1973, for a term expiring January 1, 1976.

William Flaherty, 3208 Rankin Road, Minneapolis, Hennepin County, appointed effective November 26, 1973, for a term expiring January 1, 1976.

William Watters, 330 East Faribault, Duluth, St. Louis County, appointed effective November 26, 1973, for a term expiring January 1, 1976.

STATE BOARD OF ELECTRICITY

Walter Passe, Wabasha, Wabasha County, appointed effective January 1, 1974, for a term expiring January 1, 1979.

Allan A. Hill, Bean & Hill, Professional Engineers, 2002 London Road, Duluth, St. Louis County, appointed effective January 1, 1974, for a term expiring January 1, 1979.

STATE BOARD OF HUMAN RIGHTS

Mrs. Helen Gamradt, 305 Northwest 6th Street, Little Falls, Morrison County, appointed effective August 18, 1972, for a term expiring the first Monday of January, 1975.

Branch C. Miller, 2801 43rd Avenue South, Minneapolis, Hennepin County, appointed effective January 2, 1973, for a term expiring the first Monday of January 1976.

STATE COMMISSION ON CABLE COMMUNICATIONS

Virginia Greenman, 148 Prospect Boulevard, St. Paul, Ramsey County, appointed effective August 17, 1973, for a term expiring January 1, 1976.

Mrs. Janet Yonehiro, 6020 Fairwood Drive, Minnetonka, Hennepin County, appointed effective August 17, 1973, for a term expiring January 1, 1976.

Theodore Melby, Montgomery, LeSueur County, appointed effective August 17, 1973, for a term expiring January 1, 1978.

Richard Hunegs, 8907 Minnehaha Circle, Minneapolis, Hennepin County, appointed effective August 17, 1973, for a term expiring January 1, 1978.

Tom Tipton, 3921 Sunset Boulevard, Minneapolis, Hennepin County, appointed effective August 17, 1973, for a term expiring January 1, 1978.

Richard Zeigler, 4031 N.W. 6th Street, Rochester, Olmsted County, appointed effective August 17, 1973, for a term expiring January 1, 1978.

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Gearty moved that the foregoing Committee Report be laid on the table. The motion prevailed.

Mr. Novak from the Committee on Finance, to which was referred

S. F. No. 3308: A bill for an act creating a legislative commission to study and propose legislation relating to the problem of organized crime; appropriating money therefor.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 28, strike "\$10,000" and insert "\$30,000"

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Finance, to which was referred

S. F. No. 884: A bill for an act relating to crimes and criminals; providing compensation for victims of violent crimes; providing a penalty; appropriating money.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, line 11, strike "executive branch" and insert "department of public safety, for budgetary and administrative purposes,"

Page 8, strike lines 17 through 21

Reletter clauses in sequence

Page 12, strike line 4 and insert in lieu thereof "on or after January 2, 1975."

Page 12, strike lines 5 through 8 and insert:

"Sec. 17. [APPROPRIATIONS.] The sum of \$25,000 is hereby appropriated from the general fund in the state treasury to the department of public safety for the organization, operation, administration and staffing of the crime victim reparation board effective January 2, 1975."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Finance, to which was referred

S. F. No. 3280: A bill for an act relating to economic development; appropriating money for the promotion of Minnesota agriculture.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 11, strike "lapse or" and insert in lieu thereof "cancel until June 30, 1977. The department of economic development shall, by written contract upon such conditions as it may provide, require the sponsors of the Bicentennial Agricultural Exposition to return to the state of Minnesota for deposit in the general fund all or part of the funds hereby appropriated if the event shows a profit."

Page 1, strike line 12

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Finance, to which was referred

H. F. No. 2704: A bill for an act relating to the department of natural resources; appropriating money for the improvement of a

certain road leading to a state park; and providing for the transfer of the road to the town of Camp Release.

Reports the same back with the recommendation that the bill do pass and be placed on the Calendar of Ordinary Matters. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

S. F. No. 3367: A bill for an act relating to aeronautics; appropriating and transferring certain funds.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

H. F. No. 3029: A bill for an act relating to public welfare; eligibility requirements for medical assistance for needy persons; amending Minnesota Statutes, 1973 Supplement, Section 256B.06, Subdivision 1; repealing Minnesota Statutes, 1973 Supplement, Section 256B.06, Subdivision 2.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

S. F. No. 2707: A bill for an act creating a legislative commission to study revision of the laws relating to labor; appropriating money therefor.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Rules and Administration. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

H. F. No. 545: A bill for an act relating to the Willmar state junior college; appropriating money to the city of Willmar for costs incurred on behalf of the college.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Novak from the Committee on Finance, to which was re-referred

H. F. No. 485: A bill for an act relating to the state junior college board; appropriating money for a special assessment.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Perpich, A. J. from the Committee on Taxes and Tax Laws, to which was referred

S. F. No. 3547: A bill for an act relating to Lake county; authorizing the sale of certain lands thereof for certain purposes and providing for the extension of certain sewage, water, and gas lines thereto.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 8, before "The" insert "Notwithstanding the provisions of Minnesota Statutes, Section 282.01,"

Page 1, line 9, strike "owned by" and insert "previously conveyed to"

Page 1, line 9, after "the county" insert "as tax forfeited land held in trust and"

Page 1, strike lines 11 through 18

Page 1, line 24, strike "new"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Perpich, A. J. from the Committee on Taxes and Tax Laws, to which was referred

S. F. No. 3569: A bill for an act relating to taxation; providing for assessment of certain omitted property; amending Minnesota Statutes 1971, Section 273.02, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 14, strike "*After payment the*"

Page 1, strike lines 15 through 19

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Perpich, A. J. from the Committee on Taxes and Tax Laws, to which was re-referred

H. F. No. 3325: A bill for an act relating to taxation; assessment of real property; permitting newly organized towns adequate time to have their local assessors certified; amending Minnesota Statutes 1971, Section 270.50.

Reports the same back with the recommendation that the printed bill be amended as follows:

Strike everything after the enacting clause and insert in lieu thereof:

"Section 1. Minnesota Statutes 1971, Section 270.50, is amended to read:

270.50 [EMPLOYMENT OF CERTIFIED ASSESSORS.] Commencing December 15, 1974, no assessor shall be employed who has not been certified as qualified by the board, provided the time to comply may be extended after application to the board upon a showing that certified assessors are not available for employment. The board may certify that a county or local assessor who has not received the training, but possesses the necessary qualifications for performing the functions of his office by the passage of an approved examination or may waive the examination if such person has ~~at least five years experience demonstrated competence in performing the functions of his office for a period of time the board deems reasonable.~~ The county or local assessing district shall assume the cost of training of its assessors in courses approved by the board for the purpose of obtaining the assessor's certificate to the extent of course fees, mileage, meals and lodging, and recognized travel expenses not paid by the state. If the governing body of any township, or city, village or borough fails to employ an assessor as required by sections 270.41 to 270.53, the assessment shall be made by the county assessor.

A town shall pay its assessor \$20 for each day the assessor is attending approved courses or taking the examination. In addition, the town shall pay its assessor \$10 for each approved course successfully completed and \$20 upon his certification. The maximum payable to an assessor for successful completion of courses and certification shall not exceed \$50.

In the case of townships organized after the effective date of this act except towns located in counties enumerated in Minnesota Statutes, Section 391.01 or which have elected a county assessor system in accordance with Minnesota Statutes, Section 273.055, the board shall allow the town adequate time to employ a certified assessor.

Sec. 2. This act is effective on the day following final enactment."

Amend the title by striking it in its entirety and inserting:

"A bill for an act relating to taxation; assessment of real property; requiring towns to make certain payments to town assessors; permitting newly organized towns adequate time to employ a qualified assessor; amending Minnesota Statutes, 1971, Section 270.50."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Coleman from the Committee on Rules and Administration, to which were referred

H. F. Nos. 3159, 913 and 2644 for comparison to companion Senate Files, reports the following House Files were found to have no companion Senate Files on Senate Calendars and are recommended to be re-referred to their respective Committees as follows:

H. F. No. 3159 to the Committee on Health, Welfare and Corrections.

H. F. No. 2644 to the Committee on Judiciary.

H. F. No. 913 to the Committee on Taxes and Tax Laws.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

SECOND READING OF SENATE BILLS

S. F. Nos. 3576, 3569, 3547, 3367, 3280, 884 and 3323 were read the second time.

SECOND READING OF HOUSE BILLS

H. F. Nos. 858, 389, 2704, 3029, 545, 485 and 3325 were read the second time.

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1858

A bill for an act relating to auxiliary forests; restricting the creation of new auxiliary forests and the extension of existing auxiliary forest contracts; amending Minnesota Statutes 1971, Chapter 88, by adding a section.

March 18, 1974

Honorable Alec G. Olson
President of the Senate

Honorable Martin O. Sabo
Speaker of the House of Representatives

We, the undersigned conferees on the part of the Senate and the House, upon the disagreeing votes as to S. F. No. 1858, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1858 be amended as follows:

Page 1, line 12, strike "1973" and insert in lieu thereof "1974"

Page 1, line 17, strike "1973" and insert in lieu thereof "1974"

Page 1, line 23, strike "auxillary" and insert in lieu thereof "auxiliary"

Page 1, line 25, strike "auxillary" and insert in lieu thereof "auxiliary"

Page 1, line 27, strike "without penalty for such transfer" and insert in lieu thereof "; provided that when such lands are included in the tree growth tax law prior to expiration of the auxiliary forest contract they will be transferred in accordance with the provisions of Minnesota Statutes, Section 88.49, Subdivision 5. The land owner shall pay taxes in an amount equal to the difference between the amount which would have been paid had the land under contract been subject to the Minnesota tree growth tax law from the date of the filing of the contract and the amount actually paid under Minnesota Statutes, Section 88.51, Subdivisions 1 and 2"

We request adoption of this report and repassage of the bill in accordance therewith.

Senate Conferees: (Signed) Florian W. Chmielewski, Gerald L. Willet, John L. Olson.

House Conferees: (Signed) Norman Prael, Raymond Pavlak, Irvin N. Anderson.

Mr. Chmielewski moved that the foregoing recommendations and Conference Committee Report on S. F. No. 1858 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S. F. No. 1858: A bill for an act relating to auxiliary forests; restricting the creation of new auxiliary forests and the extension of existing auxiliary forest contracts; amending Minnesota Statutes 1971, Chapter 88, by adding a section.

Was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question being taken on the repassage of the bill, as amended by the Conference Committee,

And the roll being called, there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Keefe, S.	Olhoft	Solon
Bang	Dunn	Knutson	Olson, A. G.	Spear
Berg	Fitzsimons	Kowalczyk	Olson, H. D.	Stassen
Bernhagen	Frederick	Krieger	Olson, J. L.	Stokowski
Blatz	Gearty	Larson	Patton	Thorup
Borden	Hansen, Baldy	Laufenburger	Perpich, A. J.	Ueland
Brown	Hansen, Mel	Lord	Perpich, G.	Wegener
Chenoweth	Hanson, R.	McCutcheon	Pillsbury	Willet
Chmielewski	Humphrey	Milton	Purfeerst	
Coleman	Jensen	Nelson	Renneke	
Conzemius	Josefson	Novak	Schaaf	
Davies	Keefe, J.	Ogdahl	Schrom	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS

Pursuant to Rule 21, Mr. Chenoweth moved that the following members be excused for a Conference Committee on H. F. No. 636:

Messrs. Chenoweth, Ogdahl, North, Kirchner and Humphrey. The motion prevailed.

Pursuant to Rule 21, Mr. Conzemius moved that the following members be excused for a meeting of the Lobbyist Registration Committee from 12:00 o'clock p.m. until 2:00 o'clock p.m. and from 4:00 o'clock p.m. until 6:00 o'clock p.m.:

Messrs. Conzemius, McCutcheon, Knutson and Berg. The motion prevailed.

SPECIAL ORDER

Pursuant to Rule 10, Mr. Perpich, A. J., Chairman of the Committee on Taxes and Tax Laws, designated H. F. No. 2670, No. 89 on the General Orders Calendar, a Special Order to be heard immediately.

H. F. No. 2670: A bill for an act relating to taxation; providing for notice of valuation of real property; amending Minnesota Statutes 1971, Section 273.121.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 49 and nays 1, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Keefe, S.	Olson, A. G.	Schrom
Bang	Dunn	Knutson	Olson, H. D.	Solon
Bernhagen	Fitzsimons	Kowalczyk	Olson, J. L.	Spear
Blatz	Gearty	Krieger	Patton	Stassen
Borden	Hansen, Baldy	Larson	Perpich, A. J.	Stokowski
Brown	Hansen, Mel	Lord	Perpich, G.	Thorup
Chenoweth	Hanson, R.	Milton	Pillsbury	Ueland
Chmielewski	Humphrey	Nelson	Purfeerst	Wegener
Coleman	Josefson	Novak	Renneke	Willet
Davies	Keefe, J.	Olhoft	Schaaf	

Mr. Jensen voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

Pursuant to Rule 10, Mr. Perpich, A. J., Chairman of the Committee on Taxes and Tax Laws, designated S. F. No. 3270, No. 96 on the General Orders Calendar, a Special Order to be heard immediately.

S. F. No. 3270: A bill for an act relating to taxation; general property taxes; exemptions; providing an exemption for modifications to a dwelling to accommodate physically handicapped residents; amending Minnesota Statutes, 1973 Supplement, Section 272.02, Subdivision 1.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Chmielewski	Hansen, Baldy	Keefe, S.	Nelson
Bang	Coleman	Hansen, Mel	Knutson	Novak
Bernhagen	Davies	Hanson, R.	Kowalczyk	Olhoft
Blatz	Doty	Humphrey	Krieger	Olson, A. G.
Borden	Dunn	Jensen	Larson	Olson, H. D.
Brown	Fitzsimons	Josefson	Lord	Olson, J. L.
Chenoweth	Gearty	Keefe, J.	Milton	Patton

Perpich, A. J.	Purfeerst	Schrom	Stassen	Ueland
Perpich, G.	Renneke	Solon	Stokowski	Willet
Pillsbury	Schaaf	Spear	Thorup	

So the bill passed and its title was agreed to.

SPECIAL ORDER

Pursuant to Rule 10, Mr. Perpich, A. J., Chairman of the Committee on Taxes and Tax Laws, designated H. F. No. 3329, No. 97 on the General Orders Calendar, a Special Order to be heard immediately.

H. F. No. 3329: A bill for an act relating to taxation; providing for assessment of property in certain years; amending Minnesota Statutes 1971, Section 273.17, Subdivision 1.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 47 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Josefson	Olson, A. G.	Schrom
Bang	Dunn	Keefe, S.	Olson, H. D.	Solon
Bernhagen	Fitzsimons	Kowalczyk	Olson, J. L.	Spear
Blatz	Frederick	Krieger	Patton	Stassen
Borden	Gearty	Larson	Perpich, A. J.	Thorup
Brown	Hansen, Baldy	Lord	Perpich, G.	Ueland
Chenoweth	Hansen, Mel	Milton	Pillsbury	Willet
Chmielewski	Hanson, R.	Nelson	Purfeerst	
Coleman	Humphrey	Novak	Renneke	
Davies	Jensen	Olhoff	Schaaf	

So the bill passed and its title was agreed to.

SPECIAL ORDER

Pursuant to Rule 10, Mr. Perpich, A. J., Chairman of the Committee on Taxes and Tax Laws designated H. F. No. 2517, No. 98 on the General Orders Calendar, a Special Order to be heard immediately.

H. F. No. 2517: A bill for an act relating to taxation; providing for declaration of value attached to transfers of real property; amending Minnesota Statutes 1971, Section 287.241, Subdivisions 2 and 3.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 40 and nays 8, as follows:

Those who voted in the affirmative were:

Arnold	Borden	Davies	Frederick	Humphrey
Bang	Brown	Doty	Gearty	Jensen
Bernhagen	Coleman	Dunn	Hansen, Mel	Keefe, J.
Blatz	Conzemius	Fitzsimons	Hanson, R.	Keefe, S.

Knutson	Laufenburger	Novak	Perpich, G.	Spear
Kowalczyk	Lord	Olhoft	Pillsbury	Stassen
Krieger	Milton	Patton	Purfeerst	Stokowski
Larson	Nelson	Perpich, A. J.	Schaaf	Ueland

Those who voted in the negative were:

Chmielewski	Josefson	Olson, H. D.	Renneke	Willet
Hansen, Baldy	Olson, A. G.	Olson, J. L.		

So the bill passed and its title was agreed to.

SPECIAL ORDER

Pursuant to Rule 10, Mr. Perpich, A. J., Chairman of the Committee on Taxes and Tax Laws designated H. F. No. 2668, No. 100 on the General Orders Calendar, a Special Order to be heard immediately.

H. F. No. 2668: A bill for an act relating to taxation, providing for hearings before the commissioner in certain property tax reductions, amending Minnesota Statutes 1971, Section 270.19.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Josefson	Olhoft	Schrom
Ashbach	Doty	Keefe, J.	Olson, A. G.	Solon
Bang	Dunn	Keefe, S.	Olson, H. D.	Spear
Bernhagen	Fitzsimons	Krieger	Olson, J. L.	Stassen
Blatz	Gearty	Larson	Patton	Stokowski
Borden	Hansen, Baldy	Laufenburger	Perpich, A. J.	Thorup
Brown	Hansen, Mel	Lord	Perpich, G.	Ueland
Chmielewski	Hanson, R.	Milton	Pillsbury	Willet
Coleman	Humphrey	Nelson	Purfeerst	
Conzemius	Jensen	Novak	Renneke	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS—CONTINUED

Messrs. Wegener, Krieger and Coleman introduced—

Senate Resolution No. 38: A senate resolution designating September 19, 1974 as Gordon Rosenmeier Recognition Day.

Which was referred to the Committee on Rules and Administration.

Mr. Coleman moved that the following bills be stricken from General Orders and placed on the Calendar of Ordinary Matters: H. F. Nos. 2799, 3352 and 3048. The motion prevailed.

Mr. Coleman moved to take up the Senate Calendar at this time, remaining on the Order of Business of Motions and Resolutions. The motion prevailed.

CALL OF THE SENATE

Mr. Humphrey imposed a call of the Senate. The following Senators answered to their names:

Arnold	Doty	Keefe, J.	Novak	Schaaf
Ashbach	Dunn	Keefe, S.	Ogdahl	Schrom
Bang	Fitzsimons	Kowalczyk	Olhoft	Solon
Bernhagen	Gearty	Krieger	Olson, A. G.	Spear
Blatz	Hansen, Baldy	Larson	Olson, H. D.	Stassen
Borden	Hansen, Mel	Laufenburger	Olson, J. L.	Stokowski
Brown	Hanson, R.	Lord	Perpich, G.	Thorup
Chmielewski	Humphrey	Milton	Pillsbury	Ueland
Coleman	Jensen	Nelson	Purfeerst	Wegener
Davies	Josefson	North	Renneke	

The Sergeant-at-Arms was instructed to bring in the absent members.

THIRD READING OF HOUSE BILLS

H. F. No. 1951: A bill for an act relating to the metropolitan council; granting the metropolitan council the powers of a municipal housing and redevelopment authority in the metropolitan area; imposing a tax on mortgages in the seven-county metropolitan area; amending Minnesota Statutes 1971, Section 287.05, by adding a subdivision.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

Mr. Krieger moved that those not voting be excused from voting. The motion did not prevail.

Mr. Humphrey moved that those not voting be excused from voting. The motion prevailed.

And the roll being called, there were yeas 30 and nays 30, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Lewis	Olhoft	Solon
Borden	Doty	Lord	Olson, A. G.	Spear
Chenoweth	Gearty	Milton	Olson, H. D.	Stokowski
Chmielewski	Keefe, J.	Moe	Perpich, A. J.	Tennessee
Coleman	Keefe, S.	North	Purfeerst	Thorup
Conzemius	Laufenburger	Novak	Schaaf	Wegener

Those who voted in the negative were:

Ashbach	Dunn	Jensen	Larson	Pillsbury
Bang	Fitzsimons	Josefson	McCutcheon	Renneke
Berg	Hansen, Baldy	Kirchner	Nelson	Schrom
Bernhagen	Hansen, Mel	Knutson	Ogdahl	Stassen
Blatz	Hanson, R.	Kowalczyk	Olson, J. L.	Ueland
Brown	Humphrey	Krieger	Perpich, G.	Willet

So the bill failed to pass.

RECONSIDERATION

Mr. Krieger moved that the vote whereby H. F. No. 1951 failed to pass the Senate on March 19, 1974, be now reconsidered.

CALL OF THE SENATE

Mr. Davies imposed a call of the Senate. The following Senators answered to their names:

Arnold	Doty	Keefe, J.	Olson, A. G.	Solon
Ashbach	Dunn	Keefe, S.	Olson, H. D.	Spear
Bernhagen	Fitzsimons	Kowalczyk	Olson, J. L.	Stassen
Blatz	Gearty	Krieger	Perpich, A. J.	Stokowski
Borden	Hansen, Baldy	Larson	Perpich, G.	Thorup
Brown	Hansen, Mel	Laufenburger	Pillsbury	Ueland
Chenoweth	Hanson, R.	Lord	Purfeerst	Wegener
Chmielewski	Humphrey	North	Renneke	Willet
Coleman	Jensen	Ogdahl	Schaaf	
Davies	Josefson	Olhoft	Schrom	

The Sergeant-at-Arms was instructed to bring in the absent members.

The question recurred on the motion of Mr. Krieger. The motion prevailed. So the vote was reconsidered.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved to take up the Calendar of Ordinary Matters at this time, remaining on the Order of Business of Motions and Resolutions. The motion prevailed.

CALENDAR OF ORDINARY MATTERS

H. F. No. 2011: A bill for an act relating to St. Louis county; levy of taxes for major capital improvements.

With the unanimous consent of the Senate, Mr. Chmielewski moved to amend H. F. No. 2011, the printed bill, as follows:

Strike everything after the enacting clause and insert in lieu thereof:

“Section 1. [CAPITAL IMPROVEMENTS LEVY.] The St. Louis county board is hereby authorized to levy over and above and in excess of any limitations provided by law, except those contained in Minnesota Statutes, Sections 275.50 to 275.57, a special mill levy not to exceed two-thirds of a mill to be placed in a fund for capital improvements on any and all buildings now in existence or to be built for St. Louis county. For purposes of this section “mill” shall be construed to mean a “mill,” after giving effect to Laws 1971, Chapter 427.

Sec. 2. [ROAD AND BRIDGE LEVY.] Subdivision 1. The county board of St. Louis county may levy for St. Louis county road and bridge purposes in 1974 not to exceed five and one-half mills on the dollar of taxable valuation in the county; in 1975, not to exceed seven mills; and in 1976 not to exceed 8.34 mills less the taconite tax payments received for St. Louis county road and bridge purposes for 1976 under Minnesota Statutes, Sections 298.28 and 298.281.

Subd. 2. As an alternate plan, the county board of St. Louis county may issue general obligation bonds in amounts not to exceed \$650,000 for the year 1975, \$650,000 for the year 1976, and \$550,000 for the year 1977 less the taconite tax payments received for St. Louis county

road and bridge purposes for 1977 under Minnesota Statutes, Sections 298.28 and 298.281.

Sec. 3. [EFFECT ON LEVY LIMITATIONS.] The increase in the taxes authorized by this act to be levied for road and bridge purposes by St. Louis county in levy years 1974 through 1976 shall be disregarded when computing levies permitted under levy limitations provided by Minnesota Statutes, Sections 275.50 to 275.56. Effective as to taxes levied in 1977 and subsequent years, the tax levy for road and bridge purposes shall be included when computing levies permitted under the levy limitations provided by Minnesota Statutes, Sections 275.50 to 275.56.

Sec. 4. [EFFECTIVE DATE.] This act is effective upon approval by the county board of St. Louis county, and upon compliance with Minnesota Statutes, Section 645.021."

Further, amend the title by striking it in its entirety and inserting in lieu thereof:

"A bill for an act relating to St. Louis county; authorizing tax levies for capital improvements and road and bridge purposes in excess of certain existing levy limits; establishing levy limits for capital improvements and road and bridge levies; authorizing the issuance of general obligation bonds in lieu of increased levies for road and bridge purposes."

The motion prevailed. So the amendment was adopted.

H. F. No. 2011: A bill for an act relating to St. Louis county; levy of taxes for major capital improvements.

Was read the third time, as amended, and placed on its final passage.

The question being taken on the passage of the bill, as amended,

And the roll being called, there were yeas 46 and nays 2, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Keefe, S.	Novak	Stassen
Ashbach	Fitzsimons	Kowalczyk	Olson, H. D.	Stokowski
Bang	Gearty	Krieger	Olson, J. L.	Thorup
Bernhagen	Hansen, Baldy	Larson	Perpich, A. J.	Ueland
Blatz	Hansen, Mel	Laufenburger	Perpich, G.	Wegener
Brown	Hanson, R.	Lewis	Pillsbury	Willet
Chmielewski	Humphrey	Lord	Renneke	
Coleman	Jensen	Milton	Schrom	
Davies	Josefson	Nelson	Solon	
Doty	Keefe, J.	North	Spear	

Messrs. Olhoft and Olson, A. G. voted in the negative.

So the bill, as amended, passed and its title was agreed to.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved that H. F. No. 3027 be stricken from General

Orders and be placed on the Calendar of Ordinary Matters. The motion prevailed.

RECESS

Mr. Coleman moved that the Senate do now recess until 2:00 o'clock p. m. The motion prevailed.

The hour of 2:00 o'clock p. m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Mr. Hansen, Baldy imposed a call of the Senate. The following Senators answered to their names:

Arnold	Dunn	Josefson	North	Purfeerst
Bernhagen	Fitzsimons	Keefe, S.	Novak	Schaaf
Borden	Frederick	Kirchner	Olhoft	Schrom
Chenoweth	Gearty	Lewis	Olson, A. G.	Spear
Coleman	Hansen, Baldy	Lord	Olson, J. L.	Tennessen
Davies	Hanson, R.	Milton	Perpich, G.	Thorup
Doty	Humphrey	Moe	Pillsbury	Willet

The Sergeant-at-Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS—CONTINUED

Pursuant to Rule 21, Mr. Perpich, G. moved that the following members be excused for a Conference Committee on H. F. No. 1136:

Messrs. Perpich, A. J.; Kowalczyk and Arnold. The motion prevailed.

SUSPENSION OF RULES

Mr. Coleman moved that the rules of the Senate be so far suspended that H. F. No. 1425, No. 17 on General Orders, be made a Special Order for immediate consideration. The motion prevailed.

CALL OF THE SENATE

Mr. Coleman imposed a call of the Senate for the balance of today's proceedings. The following Senators answered to their names:

Ashbach	Fitzsimons	Keefe, S.	Ogdahl	Spear
Blatz	Frederick	Kirchner	Olhoft	Stassen
Chenoweth	Gearty	Larson	Olson, A. G.	Tennessen
Chmielewski	Hansen, Baldy	Lewis	Olson, H. D.	Thorup
Coleman	Hansen, Mel	Lord	Olson, J. L.	Willet
Davies	Hanson, R.	Milton	Pillsbury	
Doty	Jensen	Moe	Purfeerst	
Dunn	Josefson	Novak	Schrom	

The Sergeant-at-Arms was instructed to bring in the absent members.

SPECIAL ORDER

H. F. No. 1425: A bill for an act relating to the supreme court; authorizing promulgation of rules of evidence by the supreme court; repealing Minnesota Statutes 1971, Section 480.059, Subdivision 7.

Mr. Jensen moved to amend H. F. No. 1425, the printed bill, as follows:

Page 2, strike subdivision 6 and insert in lieu thereof:

"Subd. 6. [EFFECT UPON STATUTES.] Nothing herein contained shall be deemed to grant the supreme court power to amend or modify any statute.

Subd. 7. [RIGHT RESERVED.] This section shall not abridge the right of the legislature to enact, modify or repeal any statute or modify or repeal any rule of the supreme court adopted pursuant thereto.

Sec. 2. Minnesota Statutes 1971, Section 595.04, is repealed as to all causes of action arising after the effective date of this act."

Further, amend the title as follows:

Before the period, insert "; repealing Minnesota Statutes 1971, Section 595.04, as to causes of action after certain date"

The question being taken on adoption of the amendment,

And the roll being called, there were yeas 24 and nays 26, as follows:

Those who voted in the affirmative were:

Berg	Frederick	Josefson	Nelson	Schrom
Bernhagen	Hansen, Baldy	Knutson	Olson, A. G.	Stassen
Blatz	Hansen, Mel	Kowalczyk	Olson, J. L.	Ueland
Dunn	Hanson, R.	Krieger	Pillsbury	Willet
Fitzsimons	Jensen	Larson	Renneke	

Those who voted in the negative were:

Arnold	Gearty	Moe	Purfeerst	Thorup
Borden	Keefe, S.	Novak	Schaaf	Wegener
Coleman	Lewis	O'hoff	Solon	
Conzemius	Lord	Olson, H. D.	Spear	
Davies	McCutcheon	Perpich, A. J.	Stokowski	
Doty	Milton	Perpich, G.	Tennessee	

The motion did not prevail. So the amendment was not adopted.

H. F. No. 1425 was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 30 and nays 31, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Lord	Olhoft	Solon
Ashbach	Gearty	McCutcheon	Olson, A. G.	Spear
Borden	Humphrey	Milton	Olson, H. D.	Stokowski
Chenoweth	Keefe, S.	Moe	Perpich, A. J.	Tennessen
Conzemius	Laufenburger	North	Purfeerst	Thorup
Davies	Lewis	Novak	Schaaf	Wegener

Those who voted in the negative were:

Bang	Dunn	Josefson	Nelson	Stassen
Berg	Fitzsimons	Keefe, J.	Ogdahl	Ueland
Bernhagen	Frederick	Kirchner	Olson, J. L.	Willet
Blatz	Hansen, Baldy	Knutson	Perpich, G.	
Brown	Hansen, Mel	Kowalczyk	Pillsbury	
Chmielewski	Hanson, R.	Krieger	Renneke	
Coleman	Jensen	Larson	Schrom	

So the bill failed to pass.

SUSPENSION OF RULES

Mr. Coleman moved that the rules of the Senate be so far suspended that H. F. No. 2992, No. 122 on General Orders, be made a Special Order for immediate consideration. The motion prevailed.

SPECIAL ORDER

H. F. No. 2992: A bill for an act relating to probate proceedings; regulating the inventory and appraisal of guardianships and decedents' estates; amending Minnesota Statutes, 1973 Supplement, Section 525.33; Minnesota Statutes 1971, Chapter 525, by adding a section; repealing Minnesota Statutes, 1973 Supplement, Section 525.331.

Mr. Purfeerst moved to amend H. F. No. 2992 as follows:

Strike everything after the enacting clause and insert in lieu thereof:

"ARTICLE I

GENERAL PROVISIONS, DEFINITIONS AND PROBATE

JURISDICTION OF COURT

PART 1

CITATION, CONSTRUCTION, GENERAL PROVISIONS

Section 524.1-101 [CITATION AND NUMBERING SYSTEM.] This chapter shall be known and may be cited as the uniform probate code. It is arranged and numbered, subject however to the provisions of Minnesota Statutes, Section 648.34, so that the enacted chapter may be compiled in the next published edition of Minnesota Statutes without change and in conformity with the official numbering of the uniform probate code.

Sec. 524.1-102. [PURPOSES: RULE OF CONSTRUCTION.] (a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of this chapter are:

(1) to simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors and incapacitated persons;

(2) to discover and make effective the intent of a decedent in distribution of his property;

(3) to promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to his successors;

(4) to facilitate use and enforcement of certain trusts;

(5) to make uniform the law among the various jurisdictions.

Sec. 524.1-103. [SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE.] Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

Sec. 524.1-104. [SEVERABILITY.] If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Sec. 524.1-105. [CONSTRUCTION AGAINST IMPLIED REPEAL.] This chapter is a general act intended as a unified coverage of its subject matter and no part of it shall be deemed impliedly repealed by subsequent legislation if it can reasonably be avoided.

Sec. 524.1-106. [EFFECT OF FRAUD AND EVASION.] Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this chapter or if fraud is used to avoid or circumvent the provisions or purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person, other than a bona fide purchaser, benefitting from the fraud, whether innocent or not. Any proceeding must be commenced within two years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his lifetime which affects the succession of his estate.

Sec. 524.1-107. [EVIDENCE AS TO DEATH OR STATUS.] In proceedings under this chapter the rules of evidence in courts of general jurisdiction including any relating to simultaneous deaths, are applicable unless specifically displaced by this chapter. In addition, the following rules relating to determination of death and status are applicable:

(1) a certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where

the death purportedly occurred is prima facie proof of the fact, place, date and time of death and the identity of the decedent;

(2) a certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances and places disclosed by the record or report;

(3) a person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Sec. 524.1-108. [ACTS BY HOLDER OF GENERAL POWER.] For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond, to register a trust, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all co-holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests as objects, takers in default, or otherwise, are subject to the power.

PART 2

DEFINITIONS

Sec. 524.1-201. [GENERAL DEFINITIONS.] Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in this chapter:

(1) "Application" means a written request to the registrar for an order of informal probate or appointment under article III, part 3.

(2) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

(3) "Child" includes any individual entitled to take as a child under law by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(4) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term does not include estate

or inheritance taxes, demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(5) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the probate court.

(6) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(7) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

(8) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(9) "Disability" means cause for a protective order as described by section 524.5-401.

(10) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(11) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration.

(12) "Exempt property" means that property of a decedent's estate which is described in section 524.2-402.

(13) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(14) "Foreign personal representative" means a personal representative of another jurisdiction.

(15) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(16) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

(17) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(18) "Incapacitated person" is as defined in section 524.5-101.

(19) "Informal proceedings" mean those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(20) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(21) "Issue" of a person means all his lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this chapter.

(22) "Lease" includes an oil, gas, or other mineral lease.

(23) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(24) "Minor" means a person who is under 18 years of age.

(25) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(26) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

(27) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal entity.

(28) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under the law by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(29) "Person" means an individual, a corporation, an organization, or other legal entity.

(30) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(31) "Petition" means a written request to the court for an order after notice.

(32) "Proceeding" includes action at law and suit in equity.

(33) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(34) "Protected person" is as defined in section 524.5-101.

(35) "Protective proceeding" is as defined in section 524.5-101.

(36) "Registrar" refers to the official of the court designated to perform the functions of registrar as provided in section 524.1-307.

(37) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(38) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(39) "Special administrator" means a personal representative as described by sections 524.3-614 through 524.3-618.

(40) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(41) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(42) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under his will or this chapter.

(43) "Supervised administration" refers to the proceedings described in article III, part 5.

(44) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(45) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in article VI, custodial arrangements pursuant to Minnesota Statutes, Sections 527.01 to 527.11, 149.11 to 149.14, 318.01 to 318.06, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind,

and any arrangement under which a person is nominee or escrowee for another.

(46) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(47) "Ward" is as defined in section 524.5-101.

(48) "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

PART 3

SCOPE, JURISDICTION AND COURTS

Sec. 524.1-301. [TERRITORIAL APPLICATION.] Except as otherwise provided in this chapter, this chapter applies to (1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state, (2) the property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state, (3) incapacitated persons and minors in this state, (4) survivorship and related accounts in this state, and (5) trusts subject to administration in this state.

Sec. 524.1-302. [SUBJECT MATTER JURISDICTION.] (a) To the full extent permitted by the constitution, the court has jurisdiction over all subject matter relating to (1) estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons; (2) protection of minors and incapacitated persons; and (3) trusts.

(b) The court has full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in the matters which come before it.

Sec. 524.1-303. [VENUE; MULTIPLE PROCEEDINGS; TRANSFER.] (a) Where a proceeding under this chapter could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

(b) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

(c) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.

Sec. 524.1-304. [PRACTICE IN COURT.] Unless specifically provided to the contrary in this chapter or unless inconsistent with its provisions, the rules of civil procedure including the rules

concerning vacation of orders and appellate review govern formal proceedings under this chapter.

Sec. 524.1-305. [RECORDS AND CERTIFIED COPIES.] The clerk of court shall keep a record for each decedent, ward, protected person or trust involved in any document which may be filed with the court under this chapter, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

Sec. 524.1-306 [JURY TRIAL.] (a) If duly demanded, a party is entitled to trial by jury in any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury.

(b) If there is no right to trial by jury under subsection (a) or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only.

Sec. 524.1-307. [REGISTRAR; POWERS.] The acts and orders which this chapter specifies as performable by the registrar may be performed either by a judge of the court or by a person, including the clerk, designated by the court by a written order filed and recorded in the office of the court.

Sec. 524.1-310. [OATH OR AFFIRMATION ON FILED DOCUMENTS.] Except as otherwise specifically provided in this chapter or by rule, every document filed with the court under this chapter including applications, petitions, and demands for notice, shall be deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and penalties for perjury may follow deliberate falsification therein.

PART 4

NOTICE, PARTIES AND REPRESENTATION IN ESTATE

LITIGATION AND OTHER MATTERS

Sec. 524.1-401. [NOTICE; METHOD AND TIME OF GIVING.] (a) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice shall be given:

(1) by mailing a copy thereof at least 14 days before the time set for the hearing by certified, registered or ordinary first class mail addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known;

(2) by delivering a copy thereof to the person being notified personally at least 14 days before the time set for the hearing; or

(3) if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for three consecutive weeks, a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing.

(b) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

Sec. 524.1-402. [NOTICE; WAIVER.] A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by him or his attorney and filed in the proceeding.

Sec. 524.1-403. [PLEADINGS; WHEN PARTIES BOUND BY OTHERS; NOTICE.] In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, the following apply:

(1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.

(2) Persons are bound by orders binding others in the following cases:

(i) Orders binding the sole holder or all co-holders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests as objects, takers in default, or otherwise, are subject to the power.

(ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate he controls; orders binding a guardian bind the ward if no conservator of his estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no con-

servator or guardian has been appointed, a parent may represent his minor child.

(iii) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(i) Notice as prescribed by section 524.1-401 shall be given to every interested person or to one who can bind an interested person as described in (2) (i) or (2) (ii) above. Notice may be given both to a person and to another who may bind him.

(ii) Notice is given to unborn or unascertained persons, who are not represented under (2) (i) or (2) (ii) above, by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

(4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

ARTICLE III

PROBATE OF WILLS AND ADMINISTRATION

PART 1

GENERAL PROVISIONS

Sec. 524.3-101. [DEVOLUTION OF ESTATE AT DEATH; RESTRICTIONS.] The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to his property are subject to the restrictions and limitations contained in this chapter to facilitate the prompt settlement of estates. Upon the death of a person, his real and personal property devolves to the persons to whom it is devised by his last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estate, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to homestead allowance, exempt property and family allowance, to rights of creditors, elective share of the surviving spouse, and to administration.

Sec. 524.3-102. [NECESSITY OF ORDER OF PROBATE FOR WILL.] Except as provided in section 524.3-1201, to be effective to prove the transfer of any property or to nominate an executor,

a will must be declared to be valid by an order of informal probate by the registrar, or an adjudication of probate by the court, except that a duly executed and unrevoked will which has not been probated may be admitted as evidence of a devise if (1) no court proceeding concerning the succession or administration of the estate has occurred, and (2) either the devisee or his successors and assigns possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

Sec. 524.3-103. [NECESSITY OF APPOINTMENT FOR ADMINISTRATION.] Except as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court or registrar, qualify and be issued letters. Administration of an estate is commenced by the issuance of letters.

Sec. 524.3-104. [CLAIMS AGAINST DECEDENT; NECESSITY OF ADMINISTRATION.] No proceeding to enforce a claim against the estate of a decedent or his successors may be revived or commenced before the appointment of a personal representative. After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by the procedure prescribed by Chapter 525 or this article. After distribution a creditor whose claim has not been barred may recover from the distributees as provided in section 524.3-1004 or from a former personal representative individually liable as provided in section 524.3-1005. This section has no application to a proceeding by a secured creditor of the decedent to enforce his right to his security except as to any deficiency judgment which might be sought therein.

Sec. 524.3-105. [PROCEEDINGS AFFECTING DEVOLUTION AND ADMINISTRATION; JURISDICTION OF SUBJECT MATTER.] Persons interested in decedents' estates may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court's jurisdiction including but not limited to those described in this article. The court has exclusive jurisdiction of formal proceedings to determine how decedents' estates subject to the laws of this state are to be administered, expended and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.

Sec. 524.3-106. [PROCEEDINGS WITHIN THE EXCLUSIVE JURISDICTION OF COURT; SERVICE; JURISDICTION OVER PERSONS.] In proceedings within the exclusive jurisdiction of the court where notice is required by this chapter or by rule, interested persons may be bound by the orders of the court in respect to prop-

erty in or subject to the laws of this state by notice in conformity with section 524.1-401. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

Sec. 524.3-107. [SCOPE OF PROCEEDINGS; PROCEEDINGS INDEPENDENT; EXCEPTION.] Unless supervised administration as described in part 5 is involved, (1) each proceeding before the court or registrar is independent of any other proceeding involving the same estate; (2) petitions for formal orders of the court may combine various requests for relief in a single proceeding if the orders sought may be finally granted without delay. Except as required for proceedings which are particularly described by other sections of this article, no petition is defective because it fails to embrace all matters which might then be the subject of a final order; (3) proceedings for probate of wills or adjudications of no will may be combined with proceedings for appointment of personal representatives; and (4) a proceeding for appointment of a personal representative is concluded by an order making or declining the appointment.

Sec. 524.3-108. [PROBATE, TESTACY AND APPOINTMENT PROCEEDINGS; ULTIMATE TIME LIMIT.] No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than three years after the decedent's death, except (1) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; (2) appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person; and (3) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of twelve months from the informal probate or three years from the decedent's death. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under (1) or (2) above, the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this chapter which relate to the date of death.

Sec. 524.3-109. [STATUTES OF LIMITATION ON DECEDENT'S CAUSE OF ACTION.] No statute of limitation running on a cause of action belonging to a decedent which had not been barred as of the date of his death, shall apply to bar a cause of action surviving the decedent's death sooner than four months after death. A cause of action which, but for this section, would have been barred less than four months after death, is barred after four months unless tolled.

PART 2

VENUE FOR PROBATE AND ADMINISTRATION;

PRIORITY TO ADMINISTER; DEMAND FOR NOTICE

Sec. 524.3-201. [VENUE FOR FIRST AND SUBSEQUENT ESTATE PROCEEDINGS; LOCATION OF PROPERTY.] (a) Venue for the first informal or formal testacy or appointment proceedings after a decedent's death is:

(1) in the county where the decedent had his domicile at the time of his death; or

(2) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of his death.

(b) Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred, unless the initial proceeding has been transferred as provided in section 524.1-303 or (c) of this section.

(c) If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.

(d) For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving non-domiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a non-domiciliary, is located where the debtor resides or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.

Sec. 524.3-202. [APPOINTMENT OR TESTACY PROCEEDINGS; CONFLICTING CLAIM OF DOMICILE IN ANOTHER STATE.] If conflicting claims as to the domicile of a decedent are made in a formal testacy or appointment proceeding commenced in this state, and in a testacy or appointment proceeding after notice pending at the same time in another state, the court of this state must stay, dismiss, or permit suitable amendment in, the proceeding here unless it is determined that the local proceeding was commenced before the proceeding elsewhere. The determination of domicile in the proceeding first commenced must be accepted as determinative in the proceeding in this state.

Sec. 524.3-203. [PRIORITY AMONG PERSONS SEEKING APPOINTMENT AS PERSONAL REPRESENTATIVE.] (a) Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:

(1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;

(2) the surviving spouse of the decedent who is a devisee of the decedent;

(3) other devisees of the decedent;

(4) the surviving spouse of the decedent;

(5) other heirs of the decedent;

(6) 45 days after the death of the decedent, any creditor.

(b) An objection to an appointment can be made only in formal proceedings. In case of objection the priorities stated in (a) apply except that

(1) if the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, the court, on petition of creditors, may appoint any qualified person;

(2) in case of objection to appointment of a person other than one whose priority is determined by will by an heir or devisee appearing to have a substantial interest in the estate, the court may appoint a person who is acceptable to heirs and devisees whose interests in the estate appear to be worth in total more than half of the probable distributable value, or, in default of this accord any suitable person.

(c) A person entitled to letters under (2) through (5) of (a) above, may nominate a qualified person to act as personal representative. Any person aged 18 and over may renounce his right to nominate or to an appointment by appropriate writing filed with the court. When two or more persons share a priority, those of them who do not renounce must concur in nominating another to act for them, or in applying for appointment.

(d) Conservators of the estates of protected persons, or if there is no conservator, any guardian except a guardian ad litem of a minor or incapacitated person, may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the protected person or ward would have if qualified for appointment.

(e) Appointment of one who does not have priority, including priority resulting from renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

(f) No person is qualified to serve as a personal representative who is:

(1) under the age of 18;

(2) a person whom the court finds unsuitable in formal proceedings;

(g) A personal representative appointed by a court of the decedent's domicile has priority over all other persons except where the decedent's will nominates different persons to be personal representative in this state and in the state of domicile. The domiciliary personal representative may nominate another, who shall have the same priority as the domiciliary personal representative.

(h) This section governs priority for appointment of a successor personal representative but does not apply to the selection of a special administrator.

Sec. 524.3-204. [DEMAND FOR NOTICE OF ORDER OR FILING CONCERNING DECEDENT'S ESTATE.] Any person desiring notice of any order or filing pertaining to a decedent's estate in which he has a financial or property interest, may file a demand for notice with the court at any time after the death of the decedent stating the name of the decedent, the nature of his interest in the estate, and the demandant's address or that of his attorney. The clerk shall mail a copy of the demand to the personal representative if one has been appointed. After filing of a demand, no order or filing to which the demand relates shall be made or accepted without notice as prescribed in section 524.1-401 to the demandant or his attorney. The validity of an order which is issued or filing which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage caused by the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of his interest in the estate.

PART 3

INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

Sec. 524.3-301. [INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS; APPLICATION; CONTENTS.] Applications for informal probate or informal appointment shall be directed to the registrar, and verified by the applicant to be accurate and complete to the best of his knowledge and belief as to the following information:

(1) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative shall contain the following:

(i) a statement of the interest of the applicant;

(ii) the name, and date of death of the decedent, his age, and the county and state of his domicile at the time of death, and the names and addresses of the spouse, children, heirs and devisees and the ages of any who are minor so far as known or ascertainable with reasonable diligence by the applicant;

(iii) if the decedent was not domiciled in the state at the time of his death, a statement showing venue;

(iv) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;

(v) a statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.

(2) An application for informal probate of a will shall state the following in addition to the statements required by (1) :

(i) that the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;

(ii) that the applicant, to the best of his knowledge, believes the will to have been validly executed;

(iii) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will;

(iv) that the time limit for informal probate as provided in this article has not expired either because three years or less have passed since the decedent's death, or, if more than three years from death have passed, that circumstances as described by section 524.3-108 authorizing tardy probate have occurred.

(3) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(4) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by (1) :

(i) that after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 524.1-301, or, a statement why any such instrument of which he may be aware is not being probated;

(ii) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 524.3-203.

(5) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(6) An application for appointment of a personal representa-

tive to succeed a personal representative who has tendered a resignation as provided in section 524.3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

Sec. 524.3-302. [INFORMAL PROBATE; DUTY OF REGISTRAR; EFFECT OF INFORMAL PROBATE.] Upon receipt of an application requesting informal probate of a will, the registrar, upon making the findings required by section 524.3-303 shall issue a written statement of informal probate if at least 120 hours have elapsed since the decedent's death. Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding. No defect in the application or procedure relating thereto which leads to informal probate of a will renders the probate void.

Sec. 524.3-303. [INFORMAL PROBATE; PROOF AND FINDINGS REQUIRED.] (a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

- (1) the application is complete;
- (2) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;
- (3) the applicant appears from the application to be an interested person as defined in section 524.1-201(20);
- (4) on the basis of the statements in the application, venue is proper;
- (5) an original, duly executed and apparently unrevoked will is in the registrar's possession;
- (6) any notice required by section 524.3-204 has been given and that the application is not within section 524.3-304; and
- (7) it appears from the application that the time limit for original probate has not expired.

(b) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in subsection (d) below, if it appears that this or another will of the decedent has been the subject of a previous probate order.

(c) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 525.18 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or he may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(d) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(e) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (a) above, may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

Sec. 524.3-304. [INFORMAL PROBATE; UNAVAILABLE IN CERTAIN CASES.] Applications for informal probate which relate to one or more of a known series of testamentary instruments, other than wills and codicils, the latest of which does not expressly revoke the earlier, shall be declined.

Sec. 524.3-305. [INFORMAL PROBATE; REGISTRAR NOT SATISFIED.] If the registrar is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of sections 524.3-303 and 524.3-304 or any other reason, he may decline the application. A declination of informal probate is not an adjudication and does not preclude formal probate proceedings.

Sec. 524.3-306. [INFORMAL PROBATE; NOTICE REQUIREMENTS.] The moving party must give notice as described by section 524.1-401 of his application for informal probate (1) to any person demanding it pursuant to section 524.3-204; and (2) to any personal representative of the decedent whose appointment has not been terminated. No other notice of informal probate is required.

Sec. 524.3-307. [INFORMAL APPOINTMENT PROCEEDINGS; DELAY IN ORDER; DUTY OF REGISTRAR; EFFECT OF APPOINTMENT.] (a) Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 524.3-614, if at least 120 hours have elapsed since the decedent's death, the registrar, after making the findings required by section 524.3-308, shall appoint the applicant subject to qualification and acceptance; provided, that if the decedent was a non-resident, the registrar shall delay the order of appointment until 30 days have elapsed since death unless the personal representative appointed at the decedent's domicile is the applicant, or unless the decedent's will directs that his estate be subject to the laws of this state.

(b) The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 524.3-608 through 524.3-612, but is not subject to retroactive vacation.

Sec. 524.3-308. [INFORMAL APPOINTMENT PROCEEDINGS; PROOF AND FINDINGS REQUIRED.] (a) In informal appointment proceedings, the registrar must determine whether:

(1) the application for informal appointment of a personal representative is complete;

(2) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;

(3) the applicant appears from the application to be an interested person as defined in section 524.1-201(20);

(4) on the basis of the statements in the application, venue is proper;

(5) any will to which the requested appointment relates has been formally or informally probated; but this requirement does not apply to the appointment of a special administrator;

(6) any notice required by section 524.3-204 has been given;

(7) from the statements in the application, the person whose appointment is sought has priority entitling him to the appointment.

(b) Unless section 524.3-612 controls, the application must be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in section 524.3-610(c) has been appointed in this or another county of this state, that, unless the applicant is the domiciliary personal representative or his nominee, the decedent was not domiciled in this state and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile, or that other requirements of this section have not been met.

Sec. 524.3-309. [INFORMAL APPOINTMENT PROCEEDINGS; REGISTRAR NOT SATISFIED.] If the registrar is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of sections 524.3-307 and 524.3-308, or for any other reason, he may decline the application. A declination of informal appointment is not an adjudication and does not preclude appointment in formal proceedings.

Sec. 524.3-310. [INFORMAL APPOINTMENT PROCEEDINGS; NOTICE REQUIREMENTS.] The moving party must give notice as described by section 524.1-401 of his intention to seek an appointment informally; (1) to any person demanding it pursuant to section 524.3-204; and (2) to any person having a prior or equal right to appointment not waived in writing and filed with the court. No other notice of an informal appointment proceeding is required.

Sec. 524.3-311. [INFORMAL APPOINTMENT UNAVAILABLE IN CERTAIN CASES.] If an application for informal appointment indicates the existence of a possible unrevoked testa-

mentary instrument which may relate to property subject to the laws of this state, and which is not filed for probate in this court, the registrar shall decline the application.

PART 4

FORMAL TESTACY AND APPOINTMENT PROCEEDINGS

Sec. 524.3-401. [FORMAL TESTACY PROCEEDINGS; NATURE; WHEN COMMENCED.] A formal testacy proceeding is litigation to determine whether a decedent left a valid will. A formal testacy proceeding may be commenced by an interested person filing a petition as described in section 524.3-402(a) in which he requests that the court, after notice and hearing, enter an order probating a will, or a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending application, or a petition in accordance with section 524.3-402(b) for an order that the decedent died intestate.

A petition may seek formal probate of a will without regard to whether the same or a conflicting will has been informally probated. A formal testacy proceeding may, but need not, involve a request for appointment of a personal representative.

During the pendency of a formal testacy proceeding, the registrar shall not act upon any application for informal probate of any will of the decedent or any application for informal appointment of a personal representative of the decedent.

Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, must refrain from exercising his power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of his office and requesting the appointment of a special administrator. In the absence of a request, or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

Sec. 524.3-402 [FORMAL TESTACY OR APPOINTMENT PROCEEDINGS; PETITION; CONTENTS.] (a) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal representative, must be directed to the court, request a judicial order after notice and hearing and contain further statements as indicated in this section. A petition for formal probate of a will

(1) requests an order as to the testacy of the decedent in relation to a particular instrument which may or may not have been informally probated and determining the heirs,

(2) contains the statements required for informal applications

as stated in the five subparagraphs under section 524.3-301(1), the statements required by subparagraphs (ii) and (iii) of section 524.3-301 (2), and

(3) states whether the original of the last will of the decedent is in the possession of the court or accompanies the petition.

If the original will is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also must state the contents of the will, and indicate that it is lost, destroyed, or otherwise unavailable.

(b) A petition for adjudication of intestacy and appointment of an administrator in intestacy must request a judicial finding and order that the decedent left no will and determining the heirs, contain the statements required by (1) and (4) of section 524.3-301 and indicate whether supervised administration is sought. A petition may request an order determining intestacy and heirs without requesting the appointment of an administrator, in which case, the statements required by subparagraph (ii) of section 524.3-301(4) above may be omitted.

Sec. 524.3-403. [FORMAL TESTACY PROCEEDING; NOTICE OF HEARING ON PETITION.] (a) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 524.1-401 by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 524.3-204 of this chapter.

Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.

(b) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, or on the written demand of any interested person, a copy of the notice of the hearing on the petition shall be sent by registered mail to the alleged decedent at his last known address. The court shall direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable, including any or all of the following methods:

(1) by inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;

(2) by notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;

(3) by engaging the services of an investigator. The costs of any search so directed shall be paid by the petitioner if there is no administration or by the estate of the decedent in case there is administration.

Sec. 524.3-404. [FORMAL TESTACY PROCEEDINGS; WRITTEN OBJECTIONS TO PROBATE.] Any party to a formal proceeding who opposes the probate of a will for any reason shall state in his pleadings his objections to probate of the will.

Sec. 524.3-405. [FORMAL TESTACY PROCEEDINGS; UNCONTESTED CASES; HEARINGS AND PROOF.] If a petition in a testacy proceeding is unopposed, the court may order probate or intestacy on the strength of the pleadings if satisfied that the conditions of section 524.3-409 have been met, or conduct a hearing in open court and require proof of the matters necessary to support the order sought. If evidence concerning execution of the will is necessary, the affidavit or testimony of one of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

Sec. 524.3-406. [FORMAL TESTACY PROCEEDINGS; CONTESTED CASES; TESTIMONY OF ATTESTING WITNESSES.] (a) If evidence concerning execution of an attested will which is not self-proved is necessary in contested cases, the testimony of at least one of the attesting witnesses, if within the state competent and able to testify, is required. Due execution of an attested or unattested will may be proved by other evidence.

(b) If the will is self-proved, compliance with signature requirements for execution is conclusively presumed and other requirements of execution are presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and affidavits annexed or attached thereto, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

Sec. 524.3-407. [FORMAL TESTACY PROCEEDINGS; BURDENS IN CONTESTED CASES.] In contested cases, petitioners who seek to establish intestacy have the burden of establishing prima facie proof of death, venue and heirship. Proponents of a will have the burden of establishing prima facie proof of due execution in all cases, and, if they are also petitioners, prima facie proof of death and venue. Contestants of a will have the burden of establishing lack of testamentary intent or capacity, undue influence, fraud, duress, mistake or revocation. Parties have the ultimate burden of persuasion as to matters with respect to which they have the initial burden of proof. If a will is opposed by the petition for probate of a later will revoking the former, it shall be determined first whether the later will is entitled to probate, and if a will is opposed by a petition for a declaration of intestacy, it shall be determined first whether the will is entitled to probate.

Sec. 524.3-408. [FORMAL TESTACY PROCEEDINGS; WILL CONSTRUCTION; EFFECT OF FINAL ORDER IN ANOTHER JURISDICTION.] A final order of a court of another state determining testacy, the validity or construction of a will, made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this state if it includes, or is based upon, a finding that the decedent was domiciled at his death in the state where the order was made.

Sec. 524.3-409. [FORMAL TESTACY PROCEEDINGS; ORDER; FOREIGN WILL.] After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, venue is proper and that the proceeding was commenced within the limitation prescribed by section 524.3-108, it shall determine the decedent's domicile at death, his heirs and his state of testacy. Any will found to be valid and unrevoked shall be formally probated. Termination of any previous informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, is governed by section 524.3-612. The petition shall be dismissed or appropriate amendment allowed if the court is not satisfied that the alleged decedent is dead. A will from a place which does not provide for probate of a will after death, may be proved for probate in this state by a duly authenticated certificate of its legal custodian that the copy introduced is a true copy and that the will has become effective under the law of the other place.

Sec. 524.3-410. [FORMAL TESTACY PROCEEDINGS; PROBATE OF MORE THAN ONE INSTRUMENT.] If two or more instruments are offered for probate before a final order is entered in a formal testacy proceeding, more than one instrument may be probated if neither expressly revokes the other or contains provisions which work a total revocation by implication. If more than one instrument is probated, the order shall indicate what provisions control in respect to the nomination of an executor, if any. The order may, but need not, indicate how any provisions of a particular instrument are affected by the other instrument. After a final order in a testacy proceeding has been entered, no petition for probate of any other instrument of the decedent may be entertained, except incident to a petition to vacate or modify a previous probate order and subject to the time limits of section 524.3-412.

Sec. 524.3-411. [FORMAL TESTACY PROCEEDINGS; PARTIAL INTESTACY.] If it becomes evident in the course of a formal testacy proceeding that, though one or more instruments are entitled to be probated, the decedent's estate is or may be partially intestate, the court shall enter an order to that effect.

Sec. 524.3-412. [FORMAL TESTACY PROCEEDINGS; EFFECT OF ORDER; VACATION.] Subject to appeal and subject to vacation as provided herein and in section 524.3-413, a formal testacy order under sections 524.3-409 to 524.3-411, including an order that the decedent left no valid will and determining heirs, is

final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

(1) the court shall entertain a petition for modification or vacation of its order and probate of another will of the decedent if it is shown that the proponents of the later-offered will were unaware of its existence at the time of the earlier proceeding or were unaware of the earlier proceeding and were given no notice thereof, except by publication.

(2) If intestacy of all or part of the estate has been ordered, the determination of heirs of the decedent may be reconsidered if it is shown that one or more persons were omitted from the determination and it is also shown that the persons were unaware of their relationship to the decedent, were unaware of his death or were given no notice of any proceeding concerning his estate, except by publication.

(3) A petition for vacation under either (1) or (2) above must be filed prior to the earlier of the following time limits:

(i) If a personal representative has been appointed for the estate, the time of entry of any order approving final distribution of the estate, or, if the estate is closed by statement, six months after the filing of the closing statement.

(ii) Whether or not a personal representative has been appointed for the estate of the decedent, the time prescribed by section 524.3-108 when it is no longer possible to initiate an original proceeding to probate a will of the decedent.

(iii) 12 months after the entry of the order sought to be vacated.

(4) The order originally rendered in the testacy proceeding may be modified or vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order redetermining heirs.

(5) The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail addressed to the alleged decedent at his last known address and the court finds that a search under section 524.3-403(b) was made.

If the alleged decedent is not dead, even if notice was sent and search was made, he may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

Sec. 524.3-413. [FORMAL TESTACY PROCEEDINGS; VACATION OR ORDER FOR OTHER CAUSE.] For good cause shown, an order in a formal testacy proceeding may be modified or vacated within the time allowed for appeal.

Sec. 524.3-414. [FORMAL PROCEEDINGS CONCERNING APPOINTMENT OF PERSONAL REPRESENTATIVE.] (a) A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by section 524.3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by section 524.3-301(1) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(b) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under section 524.3-203, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under section 524.3-611.

PART 5

SUPERVISED ADMINISTRATION

Sec. 524.3-501 [SUPERVISED ADMINISTRATION; NATURE OF PROCEEDING.] Supervised administration is a single in rem proceeding to secure complete administration and settlement of a decedent's estate under the continuing authority of the court which extends until entry of an order approving distribution of the estate and discharging the personal representative or other order terminating the proceeding. A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party. Except as otherwise provided in this part, or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

Sec. 524.3-502. [SUPERVISED ADMINISTRATION; PETITION; ORDER.] A petition for supervised administration may be filed by any interested person or by a personal representative

at any time or the prayer for supervised administration may be joined with a petition in a testacy or appointment proceeding. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised administration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration, even though the request for supervised administration may be denied. After notice to interested persons, the court shall order supervised administration of a decedent's estate: (1) if the decedent's will directs supervised administration, it shall be ordered unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration; (2) if the decedent's will directs unsupervised administration, supervised administration shall be ordered only upon a finding that it is necessary for protection of persons interested in the estate; or (3) in other cases if the court finds that supervised administration is necessary under the circumstances.

Sec. 524.3-503. [SUPERVISED ADMINISTRATION; EFFECT ON OTHER PROCEEDINGS.] (a) The pendency of a proceeding for supervised administration of a decedent's estate stays action on any informal application then pending or thereafter filed.

(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 524.3-401.

(c) After he has received notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously shall not exercise his power to distribute any estate. The filing of the petition does not affect his other powers and duties unless the court restricts the exercise of any of them pending full hearing on the petition.

Sec. 524.3-504. [SUPERVISED ADMINISTRATION; POWERS OF PERSONAL REPRESENTATIVE.] Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this chapter, but he shall not exercise his power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative which may be ordered by the court must be endorsed on his letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

Sec. 524.3-505. [SUPERVISED ADMINISTRATION; INTERIM ORDERS; DISTRIBUTION AND CLOSING

ORDERS.] Unless otherwise ordered by the court, supervised administration is terminated by order in accordance with time restrictions, notices and contents of orders prescribed for proceedings under section 524.3-1001. Interim orders approving or directing partial distributions or granting other relief may be issued by the court at any time during the pendency of a supervised administration on the application of the personal representative or any interested person.

PART 6

PERSONAL REPRESENTATIVE; APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY

Sec. 524.3-601. [QUALIFICATION.] Prior to receiving letters, a personal representative shall qualify by filing with the appointing court any required bond and a statement of acceptance of the duties of the office.

Sec. 524.3-602. [ACCEPTANCE OF APPOINTMENT; CONSENT TO JURISDICTION.] By accepting appointment, a personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the personal representative, or mailed to him by ordinary first class mail at his address as listed in the application or petition for appointment or as thereafter reported to the court and to his address as then known to the petitioner.

Sec. 524.3-603 [BOND NOT REQUIRED WITHOUT COURT ORDER, EXCEPTIONS.] No bond is required of a personal representative appointed in informal proceedings, except (1) upon the appointment of a special administrator; (2) when an executor or other personal representative is appointed to administer an estate under a will containing an express requirement of bond or (3) when bond is required under section 524.3-605. Bond may be required by court order at the time of appointment of a personal representative appointed in any formal proceeding except that bond is not required of a personal representative appointed in formal proceedings if the will relieves the personal representative of bond, unless bond has been requested by an interested party and the court is satisfied that it is desirable. Bond required by any will may be dispensed with in formal proceedings upon determination by the court that it is not necessary. No bond is required of any personal representative who, pursuant to statute, has deposited cash or collateral with an agency of this state to secure performance of his duties.

Sec. 524.3-604. [BOND AMOUNT; SECURITY; PROCEDURE: REDUCTION.] If bond is required and the provisions of the will or order do not specify the amount, unless stated in his application or petition, the person qualifying shall file a statement under oath with the registrar indicating his best estimate of the value of the personal estate of the decedent and of the income expected from the personal and real estate during the next year, and he shall execute and file a bond with the registrar, or give

other suitable security, in an amount not less than the estimate. The registrar shall determine that the bond is duly executed by a corporate surety, or one or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property or other adequate security. The registrar may permit the amount of the bond to be reduced by the value of assets of the estate deposited with a domestic financial institution, as defined in section 528.02, in a manner that prevents their unauthorized disposition. On petition of the personal representative or another interested person the court may excuse a requirement of bond, increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.

Sec. 524.3-605. [DEMAND FOR BOND BY INTERESTED PERSON.] Any person apparently having an interest in the estate worth in excess of \$1,000, or any creditor having a claim in excess of \$1,000, may make a written demand that a personal representative give bond. The demand must be filed with the registrar and a copy mailed to the personal representative, if appointment and qualification have occurred. Thereupon, bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate, or if bond is excused as provided in sections 524.3-603 or 524.3-604. After he has received notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of his office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within 30 days after receipt of notice is cause for his removal and appointment of a successor personal representative.

Sec. 524.3-606. [TERMS AND CONDITIONS OF BONDS.]
(a) The following requirements and provisions apply to any bond required by this part:

(1) Bonds shall name the state as obligee for the benefit of the persons interested in the estate and shall be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(2) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties shall be stated in the bond.

(3) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the probate court which issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of any proceeding shall be delivered to the surety or mailed to him by registered or certified mail at his address as listed with the court where the bond is filed and to his address as then known to the petitioner.

(4) On petition of a successor personal representative, any other personal representative of the same decedent, or any in-

terested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(5) The bond of the personal representative is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(b) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

Sec. 524.3-607. [ORDER RESTRAINING PERSONAL REPRESENTATIVE.] (a) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing within ten days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and his attorney of record, if any, and to any other parties named defendant in the petition.

Sec. 524.3-608. [TERMINATION OF APPOINTMENT; GENERAL.] Termination of appointment of a personal representative occurs as indicated in sections 524.3-609 to 524.3-612, inclusive. Termination ends the right and power pertaining to the office of personal representative as conferred by this chapter or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve him of the duty to preserve assets subject to his control, to account therefor and to deliver the assets. Termination does not affect the jurisdiction of the court over the personal representative, but terminates his authority to represent the estate in any pending or future proceeding.

Sec. 524.3-609. [TERMINATION OF APPOINTMENT; DEATH OR DISABILITY.] The death of a personal representative or the appointment of a conservator for the estate of a personal representative, terminates his appointment. Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by his decedent or ward at the time his

appointment terminates, has the power to perform acts necessary for protection and shall account for and deliver the estate assets to a successor or special personal representative upon his appointment and qualification.

Sec. 524.3-610. [TERMINATION OF APPOINTMENT; VOLUNTARY.] (a) An appointment of a personal representative terminates as provided in section 524.3-1003, one year after the filing of a closing statement.

(b) An order closing an estate as provided in section 524.3-1001 or 524.3-1002 terminates an appointment of a personal representative.

(c) A personal representative may resign his position by filing a written statement of resignation with the registrar after he has given at least 15 days written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to him.

Sec. 524.3-611. [TERMINATION OF APPOINTMENT BY REMOVAL; CAUSE; PROCEDURE.] (a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the personal representative, and to other persons as the court may order. Except as otherwise ordered as provided in section 524.3-607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration or preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(b) Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of himself or his nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets.

Sec. 524.3-612. [TERMINATION OF APPOINTMENT; CHANGE OF TESTACY STATUS.] Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by for-

mal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, does not terminate the appointment of the personal representative although his powers may be reduced as provided in section 524.3-401. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within 30 days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

Sec. 524.3-613. [SUCCESSOR PERSONAL REPRESENTATIVE.] Parts 3 and 4 of this article govern proceedings for appointment of a personal representative to succeed one whose appointment has been terminated. After appointment and qualification, a successor personal representative may be substituted in all actions and proceedings to which the former personal representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration which the former personal representative would have had if his appointment had not been terminated.

Sec. 524.3-614. [SPECIAL ADMINISTRATOR; APPOINTMENT.] A special administrator may be appointed:

(1) informally by the registrar on the application of any interested person when necessary to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in section 524.3-609;

(2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice.

Sec. 524.3-615 [SPECIAL ADMINISTRATOR; WHO MAY BE APPOINTED.] (a) If a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available, and qualified.

(b) In other cases, any proper person may be appointed special administrator.

Sec. 524.3-616. [SPECIAL ADMINISTRATOR; APPOINTED INFORMALLY; POWERS AND DUTIES.] A special administrator

appointed by the registrar in informal proceedings pursuant to section 524.3-614(1) has the duty to collect and manage the assets of the estate, to preserve them, to account therefor and to deliver them to the general personal representative upon his qualification. The special administrator has the power of a personal representative under the chapter necessary to perform his duties.

Sec. 524.3-617. [SPECIAL ADMINISTRATOR; FORMAL PROCEEDINGS; POWER AND DUTIES.] A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties as prescribed in the order. The appointment may be for a specified time, to perform particular acts or on other terms as the court may direct.

Sec. 524.3-618. [TERMINATION OF APPOINTMENT; SPECIAL ADMINISTRATOR.] The appointment of a special administrator terminates in accordance with the provisions of the order of appointment or on the appointment of a general personal representative. In other cases, the appointment of a special administrator is subject to termination as provided in sections 524.3-608 through 524.3-611.

PART 7

DUTIES AND POWERS OF PERSONAL REPRESENTATIVES

Sec. 524.3-701. [TIME OF ACCRUAL OF DUTIES AND POWERS.] The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to his body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

Sec. 524.3-702. [PRIORITY AMONG DIFFERENT LETTERS.] A person to whom general letters are issued first has exclusive authority under the letters until his appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

Sec. 524.3-703. [GENERAL DUTIES; RELATION AND LIABILITY TO PERSONS INTERESTED IN ESTATE; STANDING TO SUE.] (a) A personal representative is a fiduciary who shall observe the standards of care applicable to trustees.

A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this chapter, and as expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by this chapter, the terms of the will, if any, and any order in proceedings to which he is party for the best interests of successors to the estate.

(b) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning his appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children and any pretermitted child of the decedent as described elsewhere.

(c) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this state at his death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as his decedent had immediately prior to death.

Sec. 524.3-704. [PERSONAL REPRESENTATIVE TO PROCEED WITHOUT COURT ORDER; EXCEPTION.] A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but he may invoke the jurisdiction of the court, in proceedings authorized by this chapter, to resolve questions concerning the estate or its administration.

Sec. 524.3-705. [DUTY OF PERSONAL REPRESENTATIVE; INFORMATION TO HEIRS AND DEVISEES.] Not later than 30 days after his appointment every personal representative, except any special administrator, shall give information of his appointment to the heirs and devisees, including, if there has been no formal testacy proceeding and if the personal representative was appointed on the assumption that the decedent died intestate, the devisees in any will mentioned in the application for appointment of a personal representative. The information shall be delivered or sent by ordinary mail to each of the heirs and devisees whose address is reasonably available to the personal representative. The duty does not extend to require information to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate. The information shall include the name and address of the personal representative, indicate that it is being sent to persons who have or may have some interest in the estate being administered, indicate whether bond has been filed, and describe the court where papers relating to the estate are on file. The personal representative's failure to give this information is a breach of his duty to the persons concerned but does not affect the validity of his appointment, his powers or other duties. A personal representative may inform other persons of his appointment by delivery or ordinary first class mail.

Sec. 524.3-706. [DUTY OF PERSONAL REPRESENTATIVE;

INVENTORY AND APPRAISEMENT.] Within three months after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall send a copy of the inventory to interested persons who request it, or he may file the original of the inventory with the court.

Sec. 524.3-707. [EMPLOYMENT OF APPRAISERS.] The personal representative may employ a qualified and disinterested appraiser to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the inventory with the item or items he appraised.

Sec. 524.3-708. [DUTY OF PERSONAL REPRESENTATIVE; SUPPLEMENTARY INVENTORY.] If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, he shall make a supplementary inventory or appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and file it with the court if the original inventory was filed, or furnish copies thereof or information thereof to persons interested in the new information.

Sec. 524.3-709. [DUTY OF PERSONAL REPRESENTATIVE; POSSESSION OF ESTATE.] Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

Sec. 524.3-710. [POWER TO AVOID TRANSFERS.] The property liable for the payment of unsecured debts of a decedent includes all property transferred by him by any means which is in law void or voidable as against his creditors, and subject to prior

liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

Sec. 524.3-711. [POWERS OF PERSONAL REPRESENTATIVES; IN GENERAL.] Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

Sec. 524.3-712. [IMPROPER EXERCISE OF POWER; BREACH OF FIDUCIARY DUTY.] If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of his fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 524.3-713 and 524.3-714.

Sec. 524.3-713. [SALE, ENCUMBRANCE OR TRANSACTION INVOLVING CONFLICT OF INTEREST; VOIDABLE; EXCEPTIONS.] Any sale or encumbrance to the personal representative, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless

(1) the will or a contract entered into by the decedent expressly authorized the transaction; or

(2) the transaction is approved by the court after notice to interested persons.

Sec. 524.3-714. [PERSONS DEALING WITH PERSONAL REPRESENTATIVE; PROTECTION.] A person who in good faith either assists a personal representative or deals with him for value is protected as if the personal representative properly exercised his power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 524.3-504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to com-

mercial transactions and laws simplifying transfers of securities by fiduciaries.

Sec. 524.3-715. [TRANSACTIONS AUTHORIZED FOR PERSONAL REPRESENTATIVES; EXCEPTIONS.] Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 524.3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(i) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(ii) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or

receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss and liability and himself against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and instead of

acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of his death (i) in the same business form for a period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will; (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of his death;

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this chapter.

Sec. 524.3-716. [POWERS AND DUTIES OF SUCCESSOR PERSONAL REPRESENTATIVE.] A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but he shall not exercise any power expressly made personal to the executor named in the will.

Sec. 524.3-717. [CO-REPRESENTATIVES; WHEN JOINT ACTION REQUIRED.] If two or more persons are appointed co-representatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any co-representative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a co-representative has been delegated to act for the others. Persons dealing with a co-representative if actually unaware that another has been appointed to serve with him or if advised by the personal representative with whom they deal that he has authority to act alone for any of the reasons mentioned herein, are as fully protected as if

the person with whom they dealt had been the sole personal representative.

Sec. 524.3-718. [POWERS OF SURVIVING PERSONAL REPRESENTATIVE.] Unless the terms of the will otherwise provide, every power exercisable by personal co-representatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of two or more nominated as co-executors is not appointed, those appointed may exercise all the powers incident to the office.

Sec. 524.3-719. [COMPENSATION OF PERSONAL REPRESENTATIVE.] A personal representative is entitled to reasonable compensation for his services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, he may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

Sec. 524.3-720. [EXPENSES IN ESTATE LITIGATION.] If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not he is entitled to receive from the estate his necessary expenses and disbursements including reasonable attorneys' fees incurred.

Sec. 524.3-721. [PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS AND COMPENSATION OF PERSONAL REPRESENTATIVES AND EMPLOYEES OF ESTATE.] After notice to all interested persons or on petition of an interested person or on appropriate motion if administration is supervised, the propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for his own services, may be reviewed by the court. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

PART 9

SPECIAL PROVISIONS RELATING TO DISTRIBUTION

Sec. 524.3-901. [SUCCESSORS' RIGHTS IF NO ADMINISTRATION.] In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by homestead allowance, exemption or intestacy may establish title thereto by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption.

Sec. 524.3-902. [DISTRIBUTION; ORDER IN WHICH ASSETS APPROPRIATED; ABATEMENT.] (a) Except as provided in subsection (b) and except as provided in connection with the share of the surviving spouse who elects to take an elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order: (1) property not disposed of by the will; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection (a), the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Sec. 524.3-903. [RIGHT OF RETAINER.] The amount of a non-contingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to him in a direct proceeding for recovery of the debt.

Sec. 524.3-904. [INTEREST ON GENERAL PECUNIARY DEVISE.] General pecuniary devises bear interest at the legal rate beginning one year after the first appointment of a personal representative until payment, unless a contrary intent is indicated by the will.

Sec. 524.3-905. [PENALTY CLAUSE FOR CONTEST.] A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

Sec. 524.3-906. [DISTRIBUTION IN KIND; VALUATION; METHOD.] (a) Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to him, and a spouse or child who has selected particular assets of an estate shall receive the items selected.

(2) Any homestead or family allowance or devise payable in money may be satisfied by value in kind provided

(i) the person entitled to the payment has not demanded payment in cash;

(ii) the property distributed in kind is valued at fair market value as of the date of its distribution, and

(iii) no residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities, traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) The residuary estate shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests. In other cases, residuary property may be converted into cash for distribution.

(b) After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

Sec. 524.3-907. [DISTRIBUTION IN KIND; EVIDENCE.] If distribution in kind is made, the personal representative shall execute an instrument or deed of distribution assigning, transferring or releasing the assets to the distributee as evidence of the distributee's title to the property.

Sec. 524.3-908. [DISTRIBUTION; RIGHT OR TITLE OF DISTRIBUTE.] Proof that a distributee has received an instrument or deed of distribution of assets in kind, or payment in distribution, from a personal representative, is conclusive evidence that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

Sec. 524.3-909. [IMPROPER DISTRIBUTION; LIABILITY OF DISTRIBUTE.] Unless the distribution or payment no longer can be questioned because of adjudication, estoppel, or limitation, a distributee of property improperly distributed or paid, or a claimant who was improperly paid, is liable to return the property improperly received and its income since distribution if he has the property. If he does not have the property, then he is liable to return the value as of the date of disposition of the property improperly received and its income and gain received by him.

Sec. 524.3-910. [PURCHASERS FROM DISTRIBUTEES PROTECTED.] If property distributed in kind or a security interest therein is acquired by a purchaser, or lender, for value from a distributee who has received an instrument or deed of distribution from the personal representative, the purchaser or lender takes title free of any claims of the estate, whether or not the distribution was proper. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind.

Sec. 524.3-911. [PARTITION FOR PURPOSE OF DISTRIBUTION.] When two or more heirs or devisees are entitled to distribution of undivided interests in any real or personal property of the estate, the personal representative or one or more of the heirs or devisees may petition the court prior to the formal or informal closing of the estate, to make partition. After notice to the interested heirs or devisees, the court shall partition the property in the same manner as provided by the law for civil actions of partition. The court may direct the personal representative to sell any property which cannot be partitioned without prejudice to the owners and which cannot conveniently be allotted to any one party.

Sec. 524.3-912. [PRIVATE AGREEMENTS AMONG SUCCESSORS TO DECEDENT BINDING ON PERSONAL REPRESENTATIVE.] Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

Sec. 524.3-913. [DISTRIBUTIONS TO TRUSTEE.] (a) Before distributing to a trustee, the personal representative may require that the trust be registered if the state in which it is to be

administered provides for registration and that the trustee inform the beneficiaries as provided in section 524.7-303.

(b) If the trust instrument does not excuse the trustee from giving bond, the personal representative may petition the appropriate court to require that the trustee post bond if he apprehends that distribution might jeopardize the interests of persons who are not able to protect themselves, and he may withhold distribution until the court has acted.

(c) No inference of negligence on the part of the personal representative shall be drawn from his failure to exercise the authority conferred by subsections (a) and (b).

Sec. 524.3-914. [DISPOSITION OF UNCLAIMED ASSETS.]

(a) If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to his conservator, if any, otherwise to the state treasurer to become a part of the general fund.

(b) The money received by state treasurer shall be paid to the person entitled on proof of his right thereto or, if the state treasurer refuses or fails to pay, the person may petition the court which appointed the personal representative, whereupon the court upon notice to the state treasurer may determine the person entitled to the money and order the treasurer to pay it to him. No interest is allowed thereon and the heir, devisee or claimant shall pay all costs and expenses incident to the proceeding. If no petition is made to the court within eight years after payment to the state treasurer, the right of recovery is barred.

Sec. 524.3-915. [DISTRIBUTION TO PERSON UNDER DISABILITY.] A personal representative may discharge his obligation to distribute to any person under legal disability by distributing to his conservator, or any other person authorized by this chapter or otherwise to give a valid receipt and discharge for the distribution.

PART 10

CLOSING ESTATES

Sec. 524.3-1001. [FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESATE; ORDER OF GENERAL PROTECTION.] (a) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the

persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 524.3-1002. [FORMAL PROCEEDINGS TERMINATING TESTATE ADMINISTRATION; ORDER CONSTRUING WILL WITHOUT ADJUDICATING TESTACY.] A personal representative administering an estate under an informally probated will or any devisee under an informally probated will may petition for an order of settlement of the estate which will not adjudicate the testacy status of the decedent. The personal representative may petition at any time, and a devisee may petition after one year, from the appointment of the original personal representative, except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to consider the final account or compel or approve an accounting and distribution, to construe the will and adjudicate final settlement and distribution of the estate. After notice to all devisees and the personal representative and hearing, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate under the will, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any devisee who is a party to the proceeding and those he represents. If it appears that a part of the estate is intestate, the proceedings shall be dismissed or amendments made to meet the provisions of section 524.3-1001.

Sec. 524.3-1003. [CLOSING ESTATES; BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.] (a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than six months after the date of original appointment of a general personal representative for the estate, a verified statement stating that he, or a prior personal representative whom he has succeeded, has or have:

(1) published notice to creditors and that the first publication occurred more than six months prior to the date of the statement;

(2) fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements which have been made to accommodate outstanding liabilities; and

(3) sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

Sec. 524.3-1004. [LIABILITY OF DISTRIBUTEES TO CLAIMANTS.] After assets of an estate have been distributed and subject to section 524.3-1006, an undischarged claim not barred may be prosecuted in a proceeding against one or more distributees. No distributee shall be liable to claimants for amounts in excess of the value of his distribution as of the time of distribution. As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made upon him by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against him loses his right of contribution against other distributees.

Sec. 524.3-1005. [LIMITATIONS ON PROCEEDINGS AGAINST PERSONAL REPRESENTATIVE.] Unless previously barred by adjudication and except as provided in the closing statement, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within six months after the filing of the closing statement. The rights thus barred do not include rights to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.

Sec. 524.3-1006. [LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST DISTRIBUTEES.] Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of any heir or devisee, or of a successor personal representative acting in their behalf, to

recover property improperly distributed or the value thereof from any distributee is forever barred at the later of (1) three years after the decedent's death; or (2) one year after the time of distribution thereof. This section does not bar an action to recover property or value received as the result of fraud.

Sec. 524.3-1007. [CERTIFICATE DISCHARGING LIENS SECURING FIDUCIARY PERFORMANCE.] After his appointment has terminated, the personal representative, his sureties, or any successor of either, upon the filing of a verified application showing, so far as is known by the applicant, that no action concerning the estate is pending in any court, is entitled to receive a certificate from the registrar that the personal representative appears to have fully administered the estate in question. The certificate evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

Sec. 524.3-1008. [SUBSEQUENT ADMINISTRATION.] If other property of the estate is discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the court upon petition of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the court orders otherwise, the provisions of this chapter apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

PART 11

COMPROMISE OF CONTROVERSIES

Sec. 524.3-1101. [EFFECT OF APPROVAL OF AGREEMENTS INVOLVING TRUSTS, INALIENABLE INTERESTS, OR INTERESTS OF THIRD PERSONS.] A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any probated will, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties thereto including those unborn, unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it.

Sec. 524.3-1102. [PROCEDURE FOR SECURING COURT APPROVAL OF COMPROMISE.] The procedure for securing court approval of a compromise is as follows:

(1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity

cannot be ascertained or whose whereabouts is unknown and cannot reasonably be ascertained.

(2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust, and other fiduciaries and representatives.

(3) After notice to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trust, the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries under its supervision to execute the agreement. Minor children represented only by their parents may be bound only if their parents join with other competent persons in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.

PART 12

COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

Sec. 524.3-1201. [COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.] (a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

(1) the value of the entire estate, wherever located, less liens and encumbrances, does not exceed \$5,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

Sec. 524.3-1202. [EFFECT OF AFFIDAVIT.] The person paying, delivering, transferring, or issuing personal property or the

evidence thereof pursuant to affidavit is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Sec. 524.3-1203. [SMALL ESTATES; SUMMARY ADMINISTRATIVE PROCEDURE.] If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in section 524.3-1204.

Sec. 524.3-1204. [SMALL ESTATES; CLOSING BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.] (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 524.3-1203 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no actions or proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under section 524.3-1003.

ARTICLE IV
FOREIGN PERSONAL REPRESENTATIVES;
ANCILLARY ADMINISTRATION

PART 1
DEFINITIONS

Sec. 524.4-101. [DEFINITIONS.] In this article

(1) "local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in article III.

(2) "local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in article III and excludes foreign personal representatives who acquire the power of a local personal representative pursuant to section 524.4-205.

(3) "resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a nonresident decedent.

PART 2
POWERS OF FOREIGN PERSONAL REPRESENTATIVES

Sec. 524.4-201. [PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE WITHOUT LOCAL ADMINISTRATION.] At any time after the expiration of 60 days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation stock or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of his appointment and an affidavit made by or on behalf of the representative stating:

- (1) the date of the death of the nonresident decedent,
- (2) that no local administration, or application or petition therefor, is pending in this state,
- (3) that the domiciliary foreign personal representative is entitled to payment or delivery.

Sec. 524.4-202. [PAYMENT OR DELIVERY DISCHARGES.] Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative.

Sec. 524.4-203. [RESIDENT CREDITOR NOTICE.] Payment or delivery under section 524.4-201 may not be made if a resident creditor of the nonresident decedent has notified the debtor of the nonresident decedent or the person having possession of the personal property belonging to the nonresident decedent that the debt should not be paid nor the property delivered to the domiciliary foreign personal representative.

Sec. 524.4-204. [PROOF OF AUTHORITY-BOND.] If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a court in this state in a county in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

Sec. 524.4-205. [POWERS.] A domiciliary foreign personal representative who has complied with section 524.4-204 may exercise as to assets in this state all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

Sec. 524.4-206. [POWER OF REPRESENTATIVES IN TRANSITION.] The power of a domiciliary foreign personal representative under section 524.4-201 or 524.4-205 shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under section 524.4-205, but the local court may allow the foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed his position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for him in any action or proceedings in this state.

Sec. 524.4-207. [ANCILLARY AND OTHER LOCAL ADMINISTRATIONS; PROVISIONS GOVERNING.] In respect to a nonresident decedent, the provisions of article III of this chapter govern (1) proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (2) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration.

PART 3

JURISDICTION OVER FOREIGN REPRESENTATIVES

Sec. 524.4-301. [JURISDICTION BY ACT OF FOREIGN PERSONAL REPRESENTATIVE.] A foreign personal representative submits personally to the jurisdiction of the courts of this state

in any proceeding relating to the estate by (1) filing authenticated copies of his appointment as provided in section 524.4-204, (2) receiving payment of money or taking delivery of personal property under section 524.4-201, or (3) doing any act as a personal representative in this state which would have given the state jurisdiction over him as an individual. Jurisdiction under (2) is limited to the money or value of personal property collected.

Sec. 524.4-302. [JURISDICTION BY ACT OF DECEDENT.] In addition to jurisdiction conferred by section 524.4-301, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death.

Sec. 524.4-303. [SERVICE ON FOREIGN PERSONAL REPRESENTATIVE.] (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonable ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.

(b) If service is made upon a foreign personal representative as provided in subsection (a), he shall be allowed at least 30 days within which to appear or respond.

PART 4

JUDGMENTS AND PERSONAL REPRESENTATIVE

Sec. 524.4-401. [EFFECT OF ADJUDICATION FOR OR AGAINST PERSONAL REPRESENTATIVE.] An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication.

ARTICLE VIII

EFFECTIVE DATE AND REPEALER

Sec. 524.8-101. [TIME OF TAKING EFFECT; PROVISIONS FOR TRANSITION.] (a) This chapter takes effect on August 1, 1975.

(b) Except as provided elsewhere in this chapter, on the effective date of this chapter:

(1) the chapter applies to any wills of decedents dying thereafter;

(2) the chapter applies to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this chapter;

(3) every personal representative including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this chapter and is subject to the duties imposed with respect to any act occurring or done thereafter;

(4) an act done before the effective date in any proceeding and any accrued right is not impaired by this chapter. If a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right;

(5) any rule of construction or presumption provided in this chapter applies to instruments executed and multiple party accounts opened before the effective date unless there is a clear indication of a contrary intent;

(6) a person holding office as judge of the court on the effective date of this chapter may continue the office of judge of this court and may be selected for additional terms after the effective date of this chapter even though he does not meet the qualifications of a judge as provided in article I.

Sec. 524.8-102. [SPECIFIC REPEALER.] Minnesota Statutes, 1973 Supplement, Sections 525.331, 525.481, 525.482, 525.485, 525.501, 525.80, and 525.83, are repealed. Minnesota Statutes 1971, Sections 525.222, 525.23, 525.231, 525.24, 525.241, 525.243, 525.244, 525.25, 525.251, 525.252, 525.273, 525.28, 525.281, 525.282, 525.29, 525.291, 525.292, 525.30, 525.301, 525.302, 525.303, 525.304, 525.31, 525.311, 525.312, 525.314, 525.315, 525.316, 525.32, 525.321, 525.322, 525.323, 525.324, 525.34, 525.35, 525.36, 525.37, 525.38, 525.40, 525.401, 525.47, 525.486, 525.49, 525.50, 525.502, 525.503, 525.504, 525.52, 525.805, 525.81, 525.82, 525.89, and 525.91, are repealed.

Sec. 524.8-103. [EARLY EFFECTIVE DATE.] Notwithstanding section 524.8-101, the provisions of this act relating to bonds and appraisals found at sections 524.3-603 to 524.3-606, and 524.3-706 to 524.3-707, and sections 146 to 148 of this act, and that portion of section 524.8-102 which repeals sections which are inconsistent with the provisions relating to bonds and appraisals found herein are effective August 1, 1974.

Sec. 146. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.475] [DORMANT ESTATE; REMOVAL OF REPRESENTATIVE OR ATTORNEY.] *(a) If a final decree is not entered in an estate within 18 months after the commencement of the proceeding and the estate is not open pursuant to an order extending time, the court shall order the personal representative and his attorney to show good cause why a final decree has not been entered.*

(b) If good cause is not shown the court shall discharge the personal representative or instruct the personal representative to

dismiss his attorney and employ another attorney if necessary to complete the administration.

(c) If good cause is shown, the court shall order that the time for administration of the estate be extended for an additional period not to exceed six months.

If a final decree is not entered within six months from the date of extension the court shall again order the personal representative and his attorney to show cause why a final decree has not been ordered pursuant to the provisions of this section and the court may grant a further extension.

(d) An attorney dismissed pursuant to this section and who is seeking attorney fees for services rendered to the estate has the burden of affirmatively proving that the estate has benefited from his services and that the benefits warrant the payment of the requested fee.

Sec. 147. Minnesota Statutes 1971, Section 525.48, is amended to read:

525.48 [FILING OF ACCOUNT.] (a) Within the time limited every representative shall file a verified account of his administration and petition the court to settle and allow his account and to assign the estate to the persons entitled thereto. The representative shall also account at such other times as the court may require; the hearing on such account shall be had upon such notice as the court may direct.

(b) The final account shall include a statement of attorney fees. This statement shall include the total fees charged to date and estimated future fees to be charged.

Sec. 148. Minnesota Statutes 1971, Section 525.515, is amended to read:

525.515 [BASIS FOR ATTORNEY'S FEES.] (a) Notwithstanding any law to the contrary, an attorney performing services for the estate at the instance of the representative shall have compensation therefor out of the estate as the court shall deem just and reasonable. ~~In any proceeding under this section, fair and reasonable attorney's fees shall be based upon time spent, the complexity of any problems involved, and the value of the estate shall not be the controlling factor. Further, the provisions of this section shall not be limited to proceedings under section 525.51 but shall apply to all probate proceedings.~~

(b) In determining what is a fair and reasonable attorney's fee the court shall give effect to a prior agreement in writing by a testator concerning attorney fees. Where there is no prior agreement in writing with the testator the court shall consider the following factors in determining what is a fair and reasonable attorney's fee:

- (1) The time and labor required;*
- (2) The experience and knowledge of the attorney;*
- (3) The complexity and novelty of problems involved;*

(4) *The extent of the responsibilities assumed and the results obtained; and*

(5) *The sufficiency of assets properly available to pay for the services.*

(c) *An interested beneficiary under a will or heir may petition the probate court to review the attorney fees listed in section 147 of this act. In determining the reasonableness of the attorney fees, the court shall consider all the factors listed in clause (b) and the value of the estate shall not be the controlling factor.*

(d) *Unless previously agreed to in writing by the testator it is declared to be against the public policy of Minnesota for an award of attorney fees for services rendered to an estate to be based on a percentage of the estate."*

Further, amend the title by striking it and inserting in lieu thereof:

"A bill for an act relating to probate; affairs of decedents, missing persons, protected persons, minors, incapacitated persons and certain others and constituting the uniform probate code; consolidating and revising aspects of the law relating to wills and intestacy and the administration and distribution of estates of decedents, missing persons, protected persons, minors, incapacitated persons and certain others; ordering the powers and procedures of the court concerned with the affairs of decedents and certain others; requiring the final account of the representative to include a statement of attorney fees; providing for the determination of reasonable attorney fees and the removal of an attorney if a final decree is not filed within a certain time; amending Minnesota Statutes 1971, Sections 525.48 and 525.515; and Chapter 525, by adding a section; repealing Minnesota Statutes, 1973 Supplement, Sections 525.331, 525.481, 525.482, 525.485, 525.501, 525.80, and 525.83; repealing Minnesota Statutes 1971, Sections 525.222, 525.23, 525.231, 525.24, 525.241, 525.243, 525.244, 525.25, 525.251, 525.252, 525.273, 525.28, 525.281, 525.282, 525.29, 525.291, 525.292, 525.30, 525.301, 525.302, 525.303, 525.304, 525.31, 525.311, 525.312, 525.314, 525.315, 525.316, 525.32, 525.321, 525.322, 525.323, 525.324, 525.34, 525.35, 525.36, 525.37, 525.38, 525.40, 525.401, 525.47, 525.486, 525.49, 525.50, 525.502, 525.503, 525.504, 525.52, 525.805, 525.81, 525.82, 525.89, and 525.91."

The question being taken on adoption of the amendment,

Mr. Conzemius moved that those not voting be excused from voting. The motion prevailed.

And the roll being called, there were yeas 35 and nays 16, as follows:

Those who voted in the affirmative were:

Arnold	Conzemius	Kirchner	North	Renneke
Bernhagen	Doty	Kowalczyk	Novak	Schaaf
Borden	Dunn	Larson	Olhoft	Solon
Brown	Frederick	Laufenburger	Olson, H. D.	Spear
Chenoweth	Hansen, Mel	Lewis	Perpich, A. J.	Stokowski
Chmielewski	Hanson, R.	Lord	Perpich, G.	Wegener
Coleman	Josefson	Moe	Purfeerst	Willet

Those who voted in the negative were:

Blatz	Jensen	Milton	Patton	Stassen
Fitzsimons	Keefe, J.	Ogdahl	Pillsbury	Thorup
Gearty	Krieger	Olson, J. L.	Schrom	Ueland
Hansen, Baldy				

The motion prevailed. So the amendment was adopted.

Mr. Keefe, J. moved to amend the amendment placed on H. F. No. 2992, the printed bill, by the Committee on Judiciary, adopted by the Senate March 18, 1974, as follows:

In the amendment to page 2, after line 23, section 525.32, last line, after "requirement" and before the period insert ", provided there are no outstanding debts, governmental claims, or taxes unpaid in which event the court shall fix a bond in sufficient amount to pay the same"

The motion did not prevail. So the amendment was not adopted.

H. F. No. 2992 was read the third time, as amended, and placed on its final passage.

The question being taken on the passage of the bill, as amended,

Mr. Keefe, J. moved that those not voting be excused from voting. The motion did not prevail.

Mr. Purfeerst moved that those not voting be excused from voting. The motion prevailed.

And the roll being called, there were yeas 47 and nays 13, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Kowalczyk	Ogdahl	Solon
Ashbach	Doty	Laufenburger	Olhoft	Spear
Berg	Dunn	Lewis	Olson, A. G.	Stassen
Bernhagen	Frederick	Lord	Olson, H. D.	Stokowski
Borden	Hansen, Mel	McCutcheon	Olson, J. L.	Tennessen
Brown	Hanson, R.	Milton	Perpich, A. J.	Wegener
Chenoweth	Humphrey	Moe	Purfeerst	Willet
Chmielewski	Josefson	Nelson	Renneke	
Coleman	Keefe, S.	North	Schaaf	
Conzemius	Kirchner	Novak	Schrom	

Those who voted in the negative were:

Blatz	Hansen, Baldy	Knutson	Patton	Ueland
Fitzsimons	Jensen	Krieger	Pillsbury	
Gearty	Keefe, J.	Larson	Thorup	

So the bill, as amended, passed and its title was agreed to.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved to revert to the Order of Business of Messages from the House and First Reading of House Bills, remaining on the Order of Business of Motions and Resolutions. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2970: A bill for an act relating to the government of cities without home rule charters; providing for a code of statutes relating to cities without home rule charters; amending Minnesota Statutes 1971, Sections 205.05; 205.06, Subdivision 1; 205.08; 412.021, by adding a subdivision; 412.581; 412.631; 412.731; 412.751; 412.871; Chapter 205, by adding a section; Minnesota Statutes, 1973 Supplement, Sections 205.07, Subdivision 1; 412.02, Subdivision 1; 412.021, Subdivision 2; 412.023, Subdivisions 1, 2, and 4; and 465.56, Subdivision 2; repealing Minnesota Statutes, 1973 Supplement, Section 205.041.

Senate File No. 2970 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 18, 1974

CONCURRENCE AND REPASSAGE

Mr. Olson, A. G. moved that the Senate do now concur in the amendments by the House to S. F. No. 2970 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2970 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	North	Solon
Ashbach	Dunn	Knutson	Novak	Spear
Bang	Fitzsimons	Kowalczyk	Olhoft	Stassen
Berg	Frederick	Krieger	Olson, A. G.	Stokowski
Bernhagen	Gearty	Larson	Olson, J. L.	Tennessen
Blatz	Hansen, Baldy	Laufenburger	Patton	Thorup
Borden	Hansen, Mel	Lewis	Perpich, A. J.	Ueland
Brown	Hanson, R.	Lord	Perpich, G.	Wegener
Chmielewski	Humphrey	McCutcheon	Pillsbury	Willet
Coleman	Jensen	Milton	Renneke	
Conzemius	Josefson	Moe	Schaaf	
Davies	Keefe, J.	Nelson	Schrom	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which

amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3046: A bill for an act relating to weeds; notice to landowners of required eradication; amending Minnesota Statutes 1971, Section 18.271, Subdivision 2.

Senate File No. 3046 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Frederick moved that the Senate do now concur in the amendments by the House to S. F. No. 3046 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3046 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 55 and nays 1, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Keefe, J.	North	Schaaf
Ashbach	Doty	Kirchner	Novak	Schrom
Bang	Dunn	Knutson	Olhoft	Solon
Berg	Fitzsimons	Kowalczyk	Olson, A. G.	Spear
Bernhagen	Frederick	Larson	Olson, J. L.	Stassen
Blatz	Gearity	Lewis	Patton	Stokowski
Borden	Hansen, Mel	Lord	Perpich, A. J.	Tennessen
Brown	Hanson, R.	McCutcheon	Perpich, G.	Thorup
Chenoweth	Humphrey	Milton	Pillsbury	Ueland
Coleman	Jensen	Moe	Purfeerst	Wegener
Conzemius	Josefson	Nelson	Renneke	Willet

Mr. Hansen, Baldy voted in the negative.

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3208: A bill for an act relating to the administration of public welfare; amending Minnesota Statutes, 1973 Supplement, Sections 245A.01, Subdivision 1; 245A.05, Subdivision 1; 245A.18, Subdivision 2 and Laws 1973, Chapter 650, Article XXI, Section 32.

Senate File No. 3208 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Coleman moved that the Senate do now concur in the amendments by the House to S. F. No. 3208 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3208: A bill for an act relating to the administration of public welfare; amending Minnesota Statutes, 1973 Supplement, Sections 245A.01, Subdivision 1; 245A.05, Subdivision 1; 245A.18, and Laws 1973, Chapter 650, Article XXI, Section 32.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 58 and nays 0; as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	Norak	Schrom
Ashbach	Dunn	Knutson	Ogdahl	Solon
Bang	Fitzsimons	Kowalczyk	Olhoft	Spear
Berg	Frederick	Krieger	Olson, A. G.	Stassen
Bernhagen	Gearty	Larson	Olson, J. L.	Stokowski
Blatz	Hansen, Baldy	Lewis	Patton	Tennessen
Brown	Hansen, Mel	Lord	Perpich, A. J.	Thorup
Chenoweth	Hanson, R.	McCutcheon	Perpich, G.	Ueland
Chmielewski	Humphrey	Milton	Pillsbury	Wegener
Coleman	Jensen	Moe	Purfeerst	Willet
Conzemius	Josefson	Nelson	Renneke	
Davies	Keefe, J.	North	Schaaf	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3163: A bill for an act relating to the city of St. Paul; authorizing the issuance of licenses for the sale of intoxicating liquor at the old federal courts building.

Senate File No. 3163 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 18, 1974

Mr. North moved that the Senate do not concur in the amendments by the House to S. F. No. 3163 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested.

S. F. No. 2818: A bill for an act relating to elections; stating the constitutional residency requirement for candidates; amending Minnesota Statutes, 1973 Supplement, Section 202.04, Subdivision 1.

Senate File No. 2818 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

Mr. Olhott moved that the Senate do not concur in the amendments by the House to S. F. No. 2818 and that a Conference Committee of 3 members be appointed by the Committee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S. F. No. 2759: A bill for an act relating to public employees; authorizing participation in the state deferred compensation plan; amending Minnesota Statutes, 1973 Supplement, Section 16.027, Subdivision 8.

There has been appointed as such committee on the part of the House:

Parish, Quirin and Faricy.

Senate File No. 2759 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S. F. No. 2933: A bill for an act relating to free-standing ambulatory surgery facilities; coverage for surgery in certain instances; amending Minnesota Statutes 1971, Chapter 62A, by adding a section; Section 62C.14, by adding a subdivision; Chapter 144, by adding a section; and Section 145.72, Subdivision 2.

There has been appointed as such committee on the part of the House:

Pehler, Quirin and Knickerbocker.

Senate File No. 2933 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned:

S. F. Nos. 3194, 1231, 2878, 3016, 3193, 3409, 1149, 2779, 3036, 3048 and 3428.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted:

H. F. Nos. 2737, 2900, 452 and 3712.

Edward A. Burdick, Chief Clerk, House of Representatives
Transmitted March 19, 1974

FIRST READING OF HOUSE BILLS

H. F. No. 2737: A bill for an act relating to migrant labor housing inspection; appropriating funds therefor.

H. F. No. 2900: A bill for an act relating to the commission on judicial standards; providing that certain members of the commission receive a per diem compensation; amending Minnesota Statutes, 1973 Supplement, Section 490.15.

H. F. No. 452: A bill for an act relating to crimes and criminals; indemnification of victims of violent crimes for expenses; providing a penalty for fraudulent claims; appropriating money.

H. F. No. 3712: A bill for an act relating to claims against the state; appropriating moneys for the payment thereof; amending Minnesota Statutes 1971, Section 3.732, Subdivisions 2, 4 and 5.

Which were read the first time and referred to the Committee on Rules and Administration.

APPOINTMENTS

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 1835, pursuant to the request of the House:

Messrs. Olson, A. G.; Perpich, A. J.; Ashbach.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 3571, pursuant to the request of the House:

Messrs. Coleman, Krieger, Conzemius.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

SUSPENSION OF RULES

Mr. Coleman moved that the rules of the Senate be so far suspended that H. F. No. 1931, No. 110 on General Orders, be made a Special Order for immediate consideration. The motion prevailed.

SPECIAL ORDER

H. F. No. 1931: A bill for an act relating to cities of the first class; providing for the transfer of liquor licenses in certain cases; amending Minnesota Statutes 1971, Section 340.57.

Mr. Doty moved to amend the amendment placed on H. F. No. 1931, the printed bill, by the Committee on Labor and Commerce, adopted by the Senate March 15, 1974, as follows:

In section 1, line 3, after "first class" insert "with a population of 150,000 or more"

The motion did not prevail. So the amendment was not adopted.

Mr. Solon moved to amend the amendment placed on H. F. No. 1931, the printed bill, by the Committee on Labor and Commerce, adopted by the Senate March 15, 1974, as follows:

After the last line of section 2, insert:

"Sec. 3. Minnesota Statutes, 1973 Supplement, Section 340.14, Subdivision 3, is amended to read:

Subd. 3. [SALES; WHERE FORBIDDEN.] No intoxicating liquors shall be sold in any of the following places:

- (1) Within the capitol or upon the grounds thereof;
- (2) Upon the state fairgrounds or at any place in a city of the first class within one half mile of such fairgrounds except as hereinafter otherwise provided by charter;
- (3) Upon the campus of the school of agriculture of the University of Minnesota or at any place in a city of the first class within one half mile of such campus except as hereinafter otherwise provided by charter;
- (4) Within 1,000 feet of any state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of public welfare or the commissioner of corrections. Whoever sells or otherwise disposes of intoxicating liquor at retail at a place prohibited by this clause is guilty of a gross misdemeanor;
- (5) In any town or municipality in which a majority of votes at the last election at which the question of license was voted upon shall not have been in favor of license, or within one half mile of any such municipality, except that any intoxicating liquor, manufactured within any such district, may be sold to be consumed outside of such district;

(6) At any place on the east side of the Mississippi river within one mile of the main building of the University of Minnesota unless the licensed establishment is on property owned or operated by a nonprofit corporation organized prior to January 1, 1940 for and by former students of the University of Minnesota; and within one mile of the Kirby student center building of the University of Minnesota, Duluth Branch; a license may be issued under this clause notwithstanding any local law to the contrary;

(7) Within 1,500 feet of any state college, except as hereinafter provided, or, when the place of sale is not within a municipality, within 1,500 feet of any public school outside of a municipality; within 1,200 feet at Winona state college, and at Southwest state college and in determining the distance, the measurement shall be along the most direct line from the nearest corner of the administration building of the college to the main entrance of the licensed premises; as to the Valley campus of the Mankato state college in the city of Mankato when the place of sale is within 1,000 feet from the middle of the entrance into the main building which entrance is located on the easterly side of South 5th Street at a point where said street is intersected by East Jackson Street in the city of Mankato, or between the Valley campus and Highland campus or within 1,500 feet of the Highland campus;

(8) At more than five places on any one side of a block within and fronting upon the patrol limits of cities of the first class;

(9) The restrictions imposed by this subdivision shall not apply to any manufacturer or wholesaler of intoxicating liquors or to a drug store or to any person lawfully licensed to sell intoxicating liquor immediately prior to the enactment of this subdivision."

Renumber the sections in sequence

Further, amend the amendment to the title as follows:

Second line of the title amendment, after "areas;" insert "amending Minnesota Statutes, 1973 Supplement, Section 340.14, Subdivision 3;"

Mr. Spear moved to amend the Solon amendment to H. F. No. 1931, the printed bill, as follows:

Strike all of clause (6) and renumber the clauses in sequence

The motion prevailed. So the amendment to the Solon amendment was adopted.

The question recurred on the Solon amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

H. F. No. 1931 was read the third time, as amended, and placed on its final passage.

The question being taken on the passage of the bill, as amended,

Mr. Larson moved that those not voting be excused from voting. The motion did not prevail.

Mr. Tennessen moved that those not voting be excused from voting. The motion prevailed.

And the roll being called, there were yeas 28 and nays 28, as follows:

Those who voted in the affirmative were:

Arnold	Davies	Milton	Perpich, G.	Tennessen
Bang	Hansen, Baldy	Moe	Purfeerst	Thorup
Berg	Hanson, R.	Novak	Schaaf	Wegener
Borden	Keefe, S.	Olson, A. G.	Solon	Willet
Chenoweth	Laufenburger	Olson, H. D.	Spear	
Conzemius	Lord	Perpich, A. J.	Stokowski	

Those who voted in the negative were:

Ashbach	Doty	Jensen	Larson	Renneke
Bernhagen	Dunn	Keefe, J.	McCutcheon	Schrom
Blatz	Fitzsimons	Kirchner	North	Stassen
Brown	Frederick	Knutson	Ogdahl	Ueland
Chmielewski	Gearty	Kowalczyk	Olhoff	
Coleman	Hansen, Mel	Krieger	Pillsbury	

So the bill failed to pass.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Wegener moved that S. F. No. 919 be taken from the table.

CONCURRENCE AND REPASSAGE

Mr. Wegener moved that the Senate do now concur in the amendments by the House to S. F. No. 919 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 919: A bill for an act relating to intoxicating liquor; exclusive liquor stores; entertainment; providing for elections to authorize exceeding statutory limits on the number of liquor licenses; amending Minnesota Statutes 1971, Sections 340.07, Subdivision 13; 340.11, by adding subdivisions; and 340.353, Subdivisions 1 and 5.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 39 and nays 14, as follows:

Those who voted in the affirmative were:

Arnold	Conzemius	Keefe, S.	Ogdahl	Spear
Ashbach	Dunn	Knutson	Olson, H. D.	Stassen
Bang	Fitzsimons	Kowalczyk	Perpich, A. J.	Stokowski
Berg	Frederick	Larson	Perpich, G.	Thorup
Borden	Gearty	Laufenburger	Pillsbury	Ueland
Brown	Hanson, R.	Lewis	Purfeerst	Wegener
Chmielewski	Humphrey	Milton	Renneke	Willet
Coleman	Jensen	North	Schaaf	

Those who voted in the negative were:

Bernhagen	Davies	Keefe, J.	McCutcheon	Schrom
Blatz	Hansen, Baldy	Kirchner	Moe	Solon
Chenoweth	Hansen, Mel	Krieger	Olhoff	

So the bill, as amended, was repassed and its title was agreed to.

RECESS

Mr. Coleman moved that the Senate do now recess until 8:00 o'clock p.m. The motion prevailed.

The hour of 8:00 o'clock p.m. having arrived, the President called the Senate to order.

MEMBERS EXCUSED

Messrs. Knutson; Pillsbury; Perpich, G. and Nelson were excused from this evening's Session. Mr. Lord was excused from the first hour of this evening's Session. Mr. Chmielewski was excused from this evening's Session until 8:00 o'clock p.m. Mr. Hansen, Mel was excused from this evening's Session until 9:00 o'clock p.m.

SUSPENSION OF RULES

Mr. Coleman moved that the rules of the Senate be so far suspended as to make the following bills Special Orders to be heard immediately: H. F. Nos. 932, 3356, 2980, 2120, 3015 and 3143. The motion prevailed.

SPECIAL ORDER

H. F. No. 3356: A bill for an act authorizing the city of Mankato to establish and maintain a traffic and ordinance violation bureau.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 39 and nays 1, as follows:

Those who voted in the affirmative were:

Bang	Frederick	Keefe, S.	North	Solon
Blatz	Gearty	Kirchner	Novak	Spear
Borden	Hansen, Baldy	Kowalczyk	Ogdahl	Stassen
Coleman	Hanson, R.	Krieger	Olhoft	Stokowski
Conzemius	Humphrey	Laufenburger	Olson, A. G.	Ueland
Doty	Jensen	Lewis	Olson, H. D.	Wegener
Dunn	Josefson	Milton	Olson, J. L.	Willet
Fitzsimons	Keefe, J.	Moe	Renneke	

Mr. McCutcheon voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H. F. No. 2980: A bill for an act relating to corrections; providing judges of the district court with certain sentencing discretion in the case of a person committed to the Minnesota corrections authority; amending Minnesota Statutes 1971, Section 242.13.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 45 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Keefe, J.	Milton	Renneke
Bang	Fitzsimons	Keefe, S.	Moe	Schrom
Bernhagen	Frederick	Kirchner	North	Solon
Blatz	Gearty	Kowalczyk	Novak	Spear
Borden	Hansen, Baldy	Krieger	Ogdahl	Stassen
Chenoweth	Hanson, R.	Larson	Olhoft	Stokowski
Coleman	Humphrey	Laufenburger	Olson, A. G.	Ueland
Conzemius	Jensen	Lewis	Olson, H. D.	Wegener
Doty	Josefson	McCutcheon	Olson, J. L.	Willet

So the bill passed and its title was agreed to.

SPECIAL ORDER

H. F. No. 932: A bill for an act relating to intoxicating liquor and non-intoxicating malt liquor; days and hours of sale; amending Minnesota Statutes 1971, Sections 340.034, Subdivision 1; and 340.14, Subdivisions 1 and 5.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 19 and nays 33, as follows:

Those who voted in the affirmative were:

Bang	Hansen, Baldy	Krieger	Perpich, A. J.	Solon
Berg	Hanson, R.	Larson	Perpich, G.	Spear
Coleman	Keefe, J.	Lewis	Schaaf	Ueland
Conzemius	Keefe, S.	Milton	Schrom	

Those who voted in the negative were:

Arnold	Doty	Jensen	North	Purfeerst
Ashbach	Dunn	Josefson	Novak	Renneke
Bernhagen	Fitzsimons	Kirchner	Ogdahl	Stassen
Blatz	Frederick	Kowalczyk	Olhoft	Wegener
Borden	Gearty	Laufenburger	Olson, A. G.	Willet
Chenoweth	Hansen, Mel	McCutcheon	Olson, H. D.	
Davies	Humphrey	Moe	Olson, J. L.	

So the bill failed to pass.

SPECIAL ORDER

H. F. No. 3015: A bill for an act relating to the powers of the attorney general; providing for investigation by the attorney general of suspected violations of business, commerce, trade and antitrust laws; prescribing penalties; providing for assurances of discontinuance and recovery of costs; amending Minnesota Statutes 1971, Sections 325.-8021; 325.907, by adding subdivisions; and Minnesota Statutes, 1973 Supplement, Section 325.907, Subdivision 2.

Mr. Keefe, J. moved to amend the amendment placed on H. F. No. 3015, the printed bill, by the Committee on Judiciary, adopted by the Senate March 13, 1974, as follows:

Section 7, subdivision 3a, line 5, strike "*costs of investigation and*"

Section 7, subdivision 3a, strike the last sentence of this subdivision

The motion did not prevail. So the amendment was not adopted.

H. F. No. 3015 was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 46 and nays 3, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Kirchner	Olson, A. G.	Stassen
Ashbach	Dunn	Laufenburger	Olson, H. D.	Stokowski
Bang	Fitzsimons	Lewis	Perpich, A. J.	Tennessee
Berg	Frederick	Lord	Perpich, G.	Ueland
Bernhagen	Gearty	McCutcheon	Purfeerst	Wegener
Borden	Hansen, Mel	Milton	Renneke	Willet
Chenoweth	Hanson, R.	Moe	Schaaf	
Coleman	Humphrey	North	Schrom	
Conzemius	Josefson	Noak	Solon	
Davies	Keefe, S.	Olhoft	Spear	

Messrs. Hansen, Baldy; Keefe, J.; and Olson, J. L. voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H. F. No. 2120: A bill for an act relating to workmen's compensation; supplementary benefits; amending Minnesota Statutes 1971, Section 176.132, Subdivision 3; and Minnesota Statutes, 1973 Supplement, Section 176.132, Subdivision 2.

Mr. Milton moved to amend the amendment placed on H. F. No. 2120, the printed bill, by the Committee on Labor and Commerce, adopted by the Senate March 9, 1974, as follows:

Page 1, line 5, strike "\$70" and insert "\$75"

Page 1, line 8, strike "\$70" where it appears in that line, and insert "\$75"

Page 2, line 4, strike "\$70" and insert "\$75"

Page 2, line 15, strike "\$70" and insert "\$75"

The motion did not prevail. So the amendment was not adopted.

H. F. No. 2120 was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 45 and nays 1, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Keefe, S.	Olson, H. D.	Stokowski
Ashbach	Fitzsimons	Kirchner	Olson, J. L.	Tennessen
Berg	Frederick	Laufenburger	Perpich, A. J.	Thorup
Bernhagen	Gearty	Lord	Purfeerst	Ueland
Borden	Hansen, Baldy	McCutcheon	Renneke	Willet
Chenoweth	Hansen, Mel	Milton	Schaaf	
Coleman	Hanson, R.	Moe	Schrom	
Conzemius	Humphrey	Novak	Solon	
Davies	Jensen	Olhoft	Spear	
Doty	Josefson	Olson, A. G.	Stassen	

Mr. Keefe, J. voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H. F. No. 3143: A bill for an act relating to taxation; levies for advertising in certain cities; amending Minnesota Statutes, 1973 Supplement, Section 465.56, Subdivision 1.

Was read the third time and placed on its final passage.

The question being taken on the passage of the bill,

And the roll being called, there were yeas 37 and nays 7, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Jensen	North	Schrom
Ashbach	Fitzsimons	Josefson	Novak	Stassen
Bang	Frederick	Kirchner	Olson, H. D.	Thorup
Berg	Gearty	Kowalczyk	Olson, J. L.	Ueland
Bernhagen	Hansen, Baldy	Laufenburger	Perpich, A. J.	Willet
Borden	Hansen, Mel	Lord	Purfeerst	
Davies	Hanson, R.	McCutcheon	Renneke	
Doty	Humphrey	Moe	Schaaf	

Those who voted in the negative were:

Chenoweth	Conzemius	Olhoft	Olson, A. G.	Tennessen
Coleman	Keefe, J.			

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved to take up the General Orders Calendar at this time, remaining on the Order of Business of Motions and Resolutions. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Laufenburger in the chair.

After some time spent therein, the committee arose, and the President having resumed the chair, Mr. Laufenburger reported that the committee had considered H. F. Nos. 2405, 268, 1716 and 242, which the committee recommends to pass.

H. F. No. 2837, which the committee recommends to pass with the following amendment offered by Mr. Conzemius:

Amend the amendment placed on H. F. No. 2837, the printed bill, by the Committee on Labor and Commerce adopted by the Senate, March 2, 1974, as follows:

Section 1, strike the first sentence

Section 1, reinstate all of the old language

Section 1, strike the new language in the second sentence

H. F. No. 1415, which the committee recommends to pass with the following amendment offered by Mr. Solon:

Amend H. F. No. 1415, the printed bill, as follows:

Page 1, line 8, strike "1971" and insert ", 1973 Supplement"

Page 2, line 1, strike "and the levy is insufficient to pay the county's share"

Page 2, line 2, strike "of such costs,"

Page 2, line 7, restore the stricken language

Page 2, line 7 strike "*developmentally disabled*" and insert "*or cerebral palsied*"

Page 2, line 8, strike the comma and insert a period

Page 2, line 8, strike "provided that"

Page 2, line 8, strike "*and*" and insert "*or*"

Page 2, line 23, strike "*palsied*" and insert "*palsy*"

Page 2, line 34, strike "that" and insert "*which*"

Page 3, after line 3 insert:

"Sec. 5. Minnesota Statutes 1971, Section 252.21, is amended to read:

252.21 [COMMISSIONER OF PUBLIC WELFARE MAY MAKE GRANTS FOR DAYTIME ACTIVITY CENTERS FOR THE MENTALLY RETARDED AND CEREBRAL PALSIED.] In order to assist in the establishment of daytime activity centers for the mentally retarded *and cerebral palsied*, the commissioner of public welfare is hereby authorized and directed to make grants, within the limits of the money appropriated, to those daytime activity centers for the mentally retarded *and cerebral palsied* that he shall select.

Sec. 6. Minnesota Statutes, 1973 Supplement, Section 252.22, is amended to read:

252.22 [APPLICANTS FOR ASSISTANCE; TAX LEVY.] Any city, village, town, county or non-profit corporation or any combination thereof, may apply to the commissioner of public welfare for assistance in establishing and operating a daytime

activity center and program for mentally retarded *and cerebral palsied* persons. Application for such assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

Any city, town, village, or county is authorized, at the discretion of its governing body, to make grants from special tax revenues or from its general revenue fund to any nonprofit organization, governmental or corporate, within or outside its jurisdiction, that has established a daytime activity center for the mentally retarded *and cerebral palsied*. In order to provide necessary funds to establish and operate daytime activity centers for the mentally retarded *and cerebral palsied*, the governing body of any city, town, village, or county may levy annually upon all taxable property in such city, town, village, or county, a special tax in excess of any statutory or charter limitation but such levy shall not exceed one-half mill as to any city, town or village. The governing body of any city, town, village, or county may make such a levy, where necessary, separate from the general levy. Nothing contained herein shall in any way preclude the use of funds available for this purpose under any existing statute or charter provision relating to cities, towns, villages and counties.

Sec. 7. Minnesota Statutes 1971, Section 252.23, is amended to read:

252.23 [ELIGIBILITY REQUIREMENTS.] An applicant shall satisfy all of the following requirements to be eligible for assistance under sections 252.21 to 252.26:

(1) Provide daytime activities for any or all of the following classes of persons:

Mentally retarded *and cerebral palsied* children who can benefit from the program of services, including those school age children who have been excused or excluded from school;

Mentally retarded *and cerebral palsied* children and adults who are unable to attend school because of the chronological age and are unable to independently engage in ordinary community activities;

(2) Provide counselling services to parents or guardians of mentally retarded *and cerebral palsied* persons who may register at the center;

(3) Comply with all rules and regulations duly promulgated by the commissioner of public welfare."

Further, amend the title as follows:

Strike the title and insert:

"A bill for an act relating to health; providing for grants to daytime activity centers for mentally retarded and cerebral palsied persons; amending Minnesota Statutes 1971, Sections 252.21;

252.23; 252.24, Subdivision 1; 252.25; 252.26; and Minnesota Statutes, 1973 Supplement, Sections 252.22 and 252.24, Subdivision 4."

H. F. No. 1421, which the committee recommends to pass with the following amendment offered by Mr. Stassen:

Amend H. F. No. 1421, the printed bill, as follows:

Page 1, line 5, strike "*the legislature shall elect as one of the 12 regents of the university*" and insert "*one member of the board of regents of the university shall be*"

Page 1, line 6, after "*person who*" insert "*at the time of his election to the board*"

Page 1, line 6, strike "*last*"

Page 1, line 7, after "*years*" insert "*prior to his election. This person shall serve for a six year term and shall represent the state at large. Upon expiration of his term or in the event of a vacancy in his office, one position shall be filled by a person having the same qualifications*"

The question being taken on the committee recommendation to pass H. F. No. 1421,

And the roll being called, there were yeas 32 and nays 20, as follows:

Those who voted in the affirmative were:

Berg	Dunn	Josefson	Milton	Solon
Bernhagen	Fitzsimons	Keefe, J.	Moe	Snear
Brown	Frederick	Keefe, S.	Ogdahl	Stassen
Chenoweth	Gearty	Kowalczyk	Olson, J. L.	Ueland
Chmielewski	Hansen, Mel	Krieger	Perpich, A. J.	
Conzemius	Hanson, R.	Larson	Renneke	
Doty	Humphrey	Lord	Schaaf	

Those who voted in the negative were:

Arnold	Hansen, Baldy	North	Olson, H. D.	Tennessen
Borden	Jensen	Novak	Purfeerst	Thorup
Coleman	Lewis	Olhoff	Schrom	Wegener
Davies	McCutcheon	Olson, A. G.	Stokowski	Willet

So the committee recommended H. F. No. 1421 to pass.

H. F. No. 1047, which the committee recommends to pass with the following amendment offered by Mr. Stassen:

Amend H. F. No. 1047 as follows:

Page 1, line 15, after "Subdivision 1." strike the remainder of the line, and insert "[COMMISSIONER OF ADMINISTRATION.] The commissioner of administration shall have general supervisory authority over the implementation of the metric system in the state of Minnesota. The commissioner of administration shall promulgate such rules and regulations as may be necessary to plan for the gradual implementation in the commerce of this state the metric system of weights and measures. The rules and regulations promulgated by the commissioner of administration pursuant to this subdivision shall:

(1) Provide for the full conversion of the commerce of this state to the metric system when this system has been fully adopted as national standards by the Congress of the United States; and

(2) Insure that all state departments, divisions, agencies, boards and commissions having any authority and/or responsibility in matters concerning standards of weights and measurement in this state shall forthwith initiate planning for the gradual conversion to and implementation of the metric system of weights and measures in this state.

Sec. 3. The commissioner of education shall in consultation with the commissioner of administration develop and implement a plan of public education on the metric system of weights and measures. The commissioner of education shall implement the plan."

Page 1, strike lines 16 and 17

Page 2, strike lines 1 through 13

H. F. No. 862, which the committee recommends to pass with the following amendment offered by Mr. Olson, J. L.:

Amend H. F. No. 862, the printed bill, as follows:

Page 1, after line 16, insert:

"Nothing in this subdivision shall apply to trailers or semi-trailers hauling farm produce between farms or market."

And then, on motion of Mr. Laufenburger, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved to revert to the Order of Business of Messages from the House, remaining on the Order of Business of Motions and Resolutions. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3372: A bill for an act relating to public welfare; permitting county welfare boards to charge fees for day care services; amending Minnesota Statutes, 1973 Supplement, Section 393.12.

Senate File No. 3372 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Keefe, S. moved that the Senate do now concur in the amendments by the House to S. F. No. 3372 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3372 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 46 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Fitzsimons	Kirchner	North	Stassen
Bang	Frederick	Kowalczyk	Olhoft	Tennessen
Berg	Gearty	Krieger	Olson, A. G.	Thorup
Brown	Hansen, Baldy	Larson	Olson, J. L.	Ueland
Chmielewski	Hansen, Mel	Laufenburger	Perpich, A. J.	Wegener
Coleman	Hanson, R.	Lewis	Purfeerst	Willet
Conzemius	Humphrey	Lord	Renneke	
Davies	Jensen	McCutcheon	Schrom	
Doty	Josefson	Milton	Solon	
Dunn	Keefe, S.	Moe	Spear	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1728: A bill for an act relating to garnishment, state employees; amending Minnesota Statutes 1971, Section 571.46.

Senate File No. 1728 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

Mr. Davies moved that S. F. No. 1728 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1879: A bill for an act relating to insurance; licensing and regulation of insurance premium finance companies; granting rule-making authority; and providing penalties.

Senate File No. 1879 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Laufenburger moved that the Senate do now concur in the amendments by the House to S. F. No. 1879 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 1879 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 47 and nays 1, as follows:

Those who voted in the affirmative were:

Arnold	Fitzsimons	Krieger	Olhoff	Stassen
Bang	Frederick	Larson	Olson, A. G.	Stokowski
Berg	Gearty	Laufenburger	Olson, H. D.	Tennessen
Brown	Hansen, Mel	Lewis	Olson, J. L.	Thorup
Chmielewski	Hanson, R.	Lord	Perpich, A. J.	Ueland
Coleman	Humphrey	McCutcheon	Purfeerst	Wegener
Conzemius	Jensen	Milton	Renneke	Willet
Davies	Josefson	Moe	Schrom	
Doty	Keefe, S.	North	Solon	
Dunn	Kirchner	Novak	Spear	

Mr. Hansen, Baldy voted in the negative.

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 3108: A bill for an act relating to highway traffic regulations; length of vehicles; permits for certain vehicles; amending Minnesota Statutes, 1973 Supplement, Sections 169.81, Subdivisions 2 and 3; and 169.861.

Senate File No. 3108 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Krieger moved that the Senate do now concur in the amendments by the House to S. F. No. 3108 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 3108: A bill for an act relating to highway traffic regulations; length of vehicles; permits for certain vehicles; amending Minnesota Statutes 1971, Section 169.09, Subdivision 5; Minnesota Statutes, 1973 Supplement, Sections 169.81, Subdivisions 2 and 3; and 169.861.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 45 and nays 5, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Josefson	McCutcheon	Renneke
Bang	Dunn	Keefe, S.	Milton	Schrom
Berg	Fitzsimons	Kirchner	Moe	Solon
Borden	Frederick	Kowalczyk	North	Spear
Brown	Gearty	Krieger	Novak	Stassen
Chmielewski	Hansen, Mel	Larson	Olhoft	Stokowski
Coleman	Hanson, R.	Laufenburger	Olson, J. L.	Thorup
Conzemius	Humphrey	Lewis	Perpich, A. J.	Ueland
Davies	Jensen	Lord	Purfeerst	Wegener

Those who voted in the negative were:

Hansen, Baldy Olson, A. G. Olson, H. D. Tennesen Willet

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 423: A bill for an act relating to St. Louis county; revising the composition of the county welfare board; amending Laws 1907, Chapter 222, Section 1, Subdivisions 1, 2 and 3, as amended; amending Minnesota Statutes 1971, Section 393.01, Subdivision 5.

Senate File No. 423 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Chmielewski moved that the Senate do now concur in the amendments by the House to S. F. No. 423 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 423 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 45 and nays 5, as follows:

Those who voted in the affirmative were:

Arnold	Doty	Josefson	Milton	Renneke
Bang	Fitzsimons	Keefe, S.	Moe	Solon
Berg	Frederick	Kirchner	North	Spear
Borden	Gearty	Kowalczyk	Novak	Stassen
Brown	Hansen, Baldy	Krieger	Olhoft	Stokowski
Chmielewski	Hansen, Mel	Laufenburger	Olson, A. G.	Tennessen
Coleman	Hanson, R.	Lewis	Olson, J. L.	Thorup
Conzemius	Humphrey	Lord	Perpich, A. J.	Ueland
Davies	Jensen	McCutcheon	Purfeerst	Wegener

Those who voted in the negative were:

Dunn	Larson	Olson, H. D.	Schrom	Willet
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So the bill, as amended, was repassed and its title was agreed to.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2177: A bill for an act relating to welfare; prohibiting restriction of foster homes by zoning; providing for notice to affected municipalities and political subdivisions; amending Minnesota Statutes 1971, Section 257.101, by adding subdivisions.

Senate File No. 2177 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. North moved that the Senate do now concur in the amendments by the House to S. F. No. 2177 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2177 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Fitzsimons	Kowalczyk	Olhoft	Stassen
Bang	Frederick	Krieger	Olson, A. G.	Stokowski
Berg	Gearty	Larson	Olson, H. D.	Tennessen
Borden	Hansen, Baldy	Laufenburger	Olson, J. L.	Thorup
Brown	Hansen, Mel	Lewis	Perpich, A. J.	Ueland
Chmielewski	Hanson, R.	Lord	Purfeerst	Wegener
Coleman	Humphrey	McCutcheon	Renneke	Willet
Conzemius	Jensen	Milton	Schaaf	
Davies	Josefson	Moe	Schrom	
Doty	Keefe, S.	North	Solon	
Dunn	Kirchner	Novak	Spear	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 1079: A bill for an act relating to local improvements; assessment procedures; notice of assessment; amending Minnesota Statutes 1971, Section 429.061, Subdivision 1.

Senate File No. 1079 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. North moved that the Senate do now concur in the amendments by the House to S. F. No. 1079 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 1079: A bill for an act relating to local improvements; assessment procedures; notice of assessment; amending Minnesota Statutes 1971, Sections 429.061, Subdivision 1; and 429.021, Subdivision 3.

Was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Keefe, S.	North	Schrom
Bang	Fitzsimons	Kirchner	Novak	Solon
Berg	Frederick	Kowalczyk	Olhoff	Spear
Borden	Gearty	Krieger	Olson, A. G.	Stassen
Brown	Hansen, Baldy	Laufenburger	Olson, H. D.	Stokowski
Chmielewski	Hansen, Mel	Lewis	Olson, J. L.	Tennessen
Coleman	Hanson, R.	Lord	Perpich, A. J.	Thorup
Conzemius	Humphrey	McCutcheon	Purfeerst	Ueland
Davies	Jensen	Milton	Renneke	Wegener
Doty	Josefson	Moe	Schaaf	Willet

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 2716: A bill for an act relating to game and fish; seasons for taking of moose; amending Minnesota Statutes 1971, Section 100.271, by adding a subdivision; and Minnesota Statutes, 1973 Supplement, Section 100.27, Subdivision 2.

Senate File No. 2716 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 19, 1974

CONCURRENCE AND REPASSAGE

Mr. Moe moved that the Senate do now concur in the amendments by the House to S. F. No. 2716 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 2716 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 47 and nays 4, as follows:

Those who voted in the affirmative were:

Arnold	Dunn	Kirchner	Olhoft	Stassen
Bang	Fitzsimons	Kowalczyk	Olson, A. G.	Stokowski
Berg	Frederick	Krieger	Olson, H. D.	Tennessen
Borden	Gearty	Larson	Olson, J. L.	Thorup
Brown	Hansen, Mel	Laufenburger	Perpich, A. J.	Ueland
Chmielewski	Hanson, R.	Lord	Purfeerst	Wegener
Coleman	Humphrey	McCutcheon	Renneke	Willet
Conzemius	Jensen	Milton	Schaaf	
Davies	Josefson	Moe	Schrom	
Doty	Keefe, S.	North	Solon	

Messrs. Hansen, Baldy; Lewis; Novak and Spear voted in the negative.

So the bill, as amended, was repassed and its title was agreed to.

APPOINTMENTS

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 2818, pursuant to the request of the Senate:

Messrs. Olhoft; Hansen, Baldy; Hanson, R.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 2576, pursuant to the request of the Senate:

Messrs. Anderson, Dunn, Willet.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 3163, pursuant to the request of the Senate:

Messrs. North, Novak, McCutcheon.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 3123, pursuant to the request of the Senate:

Messrs. Keefe, S.; Kowalczyk; Spear.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 1759, pursuant to the request of the Senate:

Messrs. Chenoweth; Keefe, J.; Schaaf.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on S. F. No. 3311, pursuant to the request of the Senate:

Messrs. Chenoweth, O'Neill, McCutcheon.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

Mr. Davies, from the Committee on Committees, recommended that the following named Senators be and they hereby are appointed as a Conference Committee on H. F. No. 3035, pursuant to the request of the House:

Messrs. Chenoweth, Gearty, Doty, Schaaf, Kirchner.

Mr. Davies moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved that H. F. Nos. 3060 and 987 be stricken from General Orders and placed on the Calendar of Ordinary Matters. The motion prevailed.

Mr. Coleman moved that the Senate do now adjourn until 10:00 o'clock a.m., Wednesday, March 20, 1974. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate.