

This provision shall not preclude voluntary contributions by any individual or organization at any time.

(2) No organization, association or society shall be eligible to receive an expense reimbursement from a person who takes a child into his home or who adopts a child in any amount whatsoever during the first ~~five years~~ twelve months that the organization, association or society is licensed by the department of public welfare.

Approved March 23, 1978.

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#### CHAPTER 524-S.F.No.1612

*An act relating to trusts; powers of trustee; permitting investment of trust assets in certain life insurance contracts; amending Minnesota Statutes 1976, Section 501.66, Subdivision 6.*

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

Section 1. Minnesota Statutes 1976, Section 501.66, Subdivision 6, is amended to read:

Subd. 6. The trustee may invest and reinvest trust assets in any property or any undivided interest therein wherever located, including but not limited to bonds, debentures, notes, secured or unsecured, stocks of corporations, whether preferred or common, real estate or improvements thereon, or any interest therein, oil and mineral leases or royalty or similar interests and interests in trusts, including investment trusts and common trust funds maintained by a corporate trustee, contracts which insure the life of a person who is or may become a trust beneficiary, and any such investments may be made, regardless of any lack of diversification.

Approved March 23, 1978.

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#### CHAPTER 525-S.F.No.1616

[Coded in Part]

*An act relating to probate; enacting the Uniform International Wills Act; specifying the appropriate county for purposes of publication; clarifying the duration of letters of appointment; providing for probate court jurisdiction; protecting certain good faith purchasers; amending Minnesota Statutes 1976, Sections 524.1-201; 524.3-306; 524.3-310; 524.3-1003; Chapter 524, by adding sections; and Minnesota Statutes, 1977 Supplement, Sections 524.3-105 and 524.3-714.*

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

Changes or additions indicated by underline deletions by ~~strikeout~~

Section 1. Minnesota Statutes 1976, Section 524.1-201, is amended to read:

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 chapters 524 and 525:

(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" includes liabilities of the decedent whether arising in contract or otherwise and liabilities of the estate which arise after the death of the decedent including funeral expenses and expenses of administration. The term does not include taxes, demands or disputes regarding title of a decedent to specific assets alleged to be included in the estate, tort claims, foreclosure of mechanic's liens, or to actions pursuant to section 573.02.

(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 or county 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 525.54.

(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

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transferred by will, to the extent of the devised assets.

(11) "Estate" includes all of 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.

(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 described in section 525.54, other than a minor.

(19) "Informal proceedings" mean those conducted by ~~an officer of the court~~ the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative in accordance with sections 524.3-301 to 524.3-311.

(20) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against 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.

(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.

(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.

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(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.

(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 described in section 525.54, subdivision 2.

(36) "Registrar" refers to the judge of the court or the person designated by the court 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 to 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, chapters 524 or 525.

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(43) "Supervised administration" refers to the proceedings described in sections 524.3-501 to 524.3-505.

(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 chapter 528, custodial arrangements pursuant to sections 149.11 to 149.14, 318.01 to 318.06, 527.01 to 527.11, 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 described in section 525.54, subdivision 1.

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

Sec. 2. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1001] DEFINITIONS.** Subdivision 1. For the purposes of sections 2 to 11, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "International will" means a will executed in conformity with sections 3 to 6.

Subd. 3. "Authorized person" and "person authorized to act in connection with international wills" means a person who by section 10, or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

Sec. 3. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1002] INTERNATIONAL WILL; VALIDITY.** Subdivision 1. A will is valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of sections 3 to 6.

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Subd. 2. The invalidity of the will as an international will does not affect its formal validity as a will of another kind.

Subd. 3. Sections 2 to 11 do not apply to the form of testamentary dispositions made by two or more persons in one instrument.

Sec. 4. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1003] INTERNATIONAL WILL; REQUIREMENTS.** Subdivision 1. The will must be made in writing. It need not be written by the testator himself. It may be written in any language, by hand or by any other means.

Subd. 2. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof. The testator need not inform the witnesses or the authorized person of the contents of the will.

Subd. 3. In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.

Subd. 4. If the testator is unable to sign, the absence of his signature does not affect the validity of the international will if the testator indicates the reason for his inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for him if the authorized person makes note of this on the will, but it is not required that any person sign the testator's name for him.

Subd. 5. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

Sec. 5. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1004] INTERNATIONAL WILLS; OTHER POINTS OF FORM.** Subdivision 1. The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.

Subd. 2. The date of the will must be the date of its signature by the authorized person. That date must be noted at the end of the will by the authorized person.

Subd. 3. The authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator, the place where he intends to have his will kept must be mentioned in the certificate provided for in section 6.

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Subd. 4. A will executed in compliance with section 4 is not invalid merely because it does not comply with this section.

Sec. 6. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

[524.2-1005] INTERNATIONAL WILL; CERTIFICATE. The authorized person shall attach to the will a certificate to be signed by him establishing that the requirements of sections 3 to 6 for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, ....., (name, address, and capacity),

a person authorized to act in connection with

international wills,

2. certify that on ....., (date)

at.....(place)

3. (testator) .....(name,

address, date and place of birth) in my

presence and that of the witnesses

4. (a) .....(name, address, date and

place of birth)

(b) .....(name, address, date and

place of birth)

has declared that the attached document is his will

and that he knows the contents thereof.

5. I furthermore certify that:

6. (a) in my presence and in that of the witnesses

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(1) the testator has signed the will or has acknowledged his signature previously affixed.

\* (2) following a declaration of the testator stating that he was unable to sign his will

for the following

reason.....

I have mentioned this declaration on the will,

\*and the signature has been affixed

by.....

(name and address)

7. (b) the witnesses and I have signed the will;

8. \*(c) each page of the will has been signed by ..... and numbered;

9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;

11. \*(f) the testator has requested me to include the following statement concerning the safekeeping of his will:

.....

12. ....PLACE OF EXECUTION



13. ....DATE

14. ....SIGNATURE

and, if necessary, SEAL.....

\*to be completed if appropriate

Sec. 7. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1006] INTERNATIONAL WILL; EFFECT OF CERTIFICATE.** In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under sections 2 to 11. The absence or irregularity of a certificate does not affect the formal validity of a will under sections 2 to 11.

Sec. 8. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1007] INTERNATIONAL WILL; REVOCATION.** An international will is subject to the ordinary rules of revocation of wills.

Sec. 9. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1008] SOURCE AND CONSTRUCTION.** Sections 2 to 8 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying sections 2 to 8, regard shall be had to its international origin and to the need for uniformity in its interpretation.

Sec. 10. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1009] PERSONS AUTHORIZED TO ACT IN RELATION TO INTERNATIONAL WILL; ELIGIBILITY; RECOGNITION BY AUTHORIZING AGENCY.** Individuals who have been admitted to practice law before the courts of this state and are currently licensed so to do are authorized persons in relation to international wills.

Sec. 11. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

**[524.2-1010] INTERNATIONAL WILL INFORMATION REGISTRATION.** Subdivision 1. The secretary of state shall establish a registry system by which authorized persons may register, in a central information center, information regarding the execution of international wills. The information shall be private until the death of the testator, after which date it shall be available to any person desiring information about any will who

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presents a death certificate or other satisfactory evidence of the testator's death to the secretary of state.

Subd. 2. The secretary of state, at the request of the authorized person, may cause the information he receives about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state.

Subd. 3. Only the following information may be received, preserved and reported pursuant to this section:

(a) The testator's name, social security number or other individual identifying number established by law;

(b) The testator's address and date and place of birth; and

(c) The intended place of deposit or safekeeping of the instrument pending the death of the testator.

Sec. 12. Minnesota Statutes, 1977 Supplement, Section 524.3-105, is amended to read:

**524.3-105 PROCEEDINGS AFFECTING DEVOLUTION AND ADMINISTRATION; JURISDICTION OF SUBJECT MATTER.** Any interested person in a decedent's estate 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. Interim orders approving or directing partial distributions, sale of property or granting other relief, including, but not limited to, waiving the lien of inheritance taxes on specific property may be issued by the court at any time during the pendency of an administration on the petition of the personal representative or any interested person. The court has exclusive jurisdiction of 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, ~~except including~~ actions to determine title to property; ~~tort actions; foreclosure of mechanic's liens; 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 ~~and any actions under section 573.02.~~

The court shall not have jurisdiction of tort actions, foreclosure of mechanic liens, or of any action under section 573.02.

Sec. 13. Minnesota Statutes 1976, Section 524.3-306, is amended to read:

**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 ~~Changes or additions indicated by underline deletions by strikeout~~

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. Upon issuance of the written statement by the registrar pursuant to section 524.3-302, notice of the informal probate proceedings, in the form prescribed by court rule, shall be given under the direction of the clerk of court by publication once a week for two consecutive weeks in a legal newspaper in the county where the application is filed and by mailing a copy of the notice by ordinary first class mail to all interested persons, other than creditors. Further if the decedent was born in a foreign country or left heirs or devisees in any foreign country, notice shall be given to the consul or other representative of such country, if he resides in this state and has filed a copy of his appointment with the secretary of state, or to the nominee or nominees of such consul or representative. If no such consul or representative exists, then notice shall be given to the chief diplomatic representative of such country at Washington, D.C. or to the secretary of state at St. Paul, Minnesota, who shall forward the same to such representative.

Sec. 14. Minnesota Statutes 1976, Section 524.3-310, is amended to read:

**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. Notice of the appointment of the personal representative shall be given under the direction of the clerk of court by publication once a week for two consecutive weeks in a legal newspaper in the county where the application is filed and by mailing a copy of the notice by ordinary first class mail to all interested persons, other than creditors. The notice, in the form prescribed by court rule, shall state that any heir, devisee or other interested person may be entitled to appointment as personal representative or may object to the appointment of the personal representative and that the personal representative is empowered to fully administer the estate including, after 30 days from the date of issuance of his letters, the power to sell, encumber, lease or distribute real estate, unless objections thereto are filed with the court (pursuant to section 524.3-607) and the court otherwise orders. Further, if the decedent was born in a foreign country or left heirs or devisees in any foreign country, notice shall be given to the consul or other representative of such country, if he resides in this state and has filed a copy of his appointment with the secretary of state, or to the nominee or nominees of such consul or representative. If no such consul or representative exists, then notice shall be given to the chief diplomatic representative of such country at Washington, D.C. or to the secretary of state at St. Paul, Minnesota, who shall forward the same to such representative. No defect in any notice nor in publication or service thereof shall limit or affect the validity of the appointment of the personal representative, his powers or other duties.

Sec. 15. Minnesota Statutes, 1977 Supplement, Section 524.3-714, is amended to read:

**524.3-714 PERSONS DEALING WITH PERSONAL REPRESENTATIVE; PROTECTION.** (a) 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

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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 commercial transactions and laws simplifying transfers of securities by fiduciaries.

(b) If property is wrongfully transferred by a person acting as a personal representative to a person who is not in good faith, a subsequent good faith purchaser is protected as if the original transferee dealt in good faith. Any purchaser in good faith is protected as if all prior transfers were made in good faith.

Sec. 16. Minnesota Statutes 1976, Section 524.3-1003, is amended to read:

**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 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 taxes, except as specified in the statement, and that the assets of the estate have been inventoried and distributed to the persons entitled. If any claims, expenses or taxes remain undischarged, the statement 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. Letters of appointment remain in full force until one year after the filing of the closing statement at which time the authority of the personal representative shall terminate.

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Sec. 17. This act shall be effective the day following final enactment.

Approved March 23, 1978.

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**CHAPTER 526-S.F.No.1635**

[Not Coded]

*An act relating to St. Louis county; limiting the manner in which costs to collect a judgment may be defrayed; amending Laws 1961, Chapter 302, Section 3.*

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

Section 1. Laws 1961, Chapter 302, Section 3, is amended to read:

Sec. 3. The probation officer shall make collections of alimony or support money when ordered by any of the judges of said court; collect money in non-support, desertion, and abandonment cases when ordered by any of the judges of said court; make collections of money or property when ordered by the court to be paid as restitution or reimbursement; turn over such money or property to the person or persons entitled thereto; and defray the costs of such collection services in whatever manner is approved by the court except that costs of collection shall not be assessed a recipient of an award for restitution or reimbursement.

Sec. 2. **EFFECTIVE DATE.** Section 1 is effective upon its approval by the governing body of St. Louis county and upon compliance with Minnesota Statutes, Section 645.021.

Approved March 23, 1978.

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**CHAPTER 527-S.F.No.1636**

[Not Coded]

*An act relating to education; allowing Independent School District No. 710 to transfer a surplus amount from its debt service fund to its capital expenditure fund.*

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

Section 1. Notwithstanding the provisions of Minnesota Statutes, Section 475.61, Subdivision 4, the board of Independent School District No. 710 may transfer the surplus amount remaining in the district's debt service fund after all outstanding bonds and interest thereon are paid, but not to exceed the amount of \$210,000, from the debt service fund to the district's capital expenditure fund, for the purpose of paying for improvements to the district's sites and buildings.

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