

Sec. 4. **EFFECTIVE DATE; APPLICATION.**

Section 1 is effective August 1, 1992, and applies to breaches of the covenant occurring on or after that date.

Section 2 is effective the day after final enactment and applies to forfeiture proceedings commenced or pending on or after that date. Section 3 is effective August 1, 1992, and applies to second occurrences on or after that date.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 1:53 p.m.

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**CHAPTER 534—S.F.No. 2514**

*An act relating to hospital districts; providing for board membership and elections in the Yellow Medicine county hospital district; providing for the organization, administration, and operation of a hospital district in the county of Swift and the city of Benson; amending Laws 1963, chapter 276, sections 2, subdivision 2, and by adding subdivisions; and 4.*

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

Section 1. Laws 1963, chapter 276, section 2, subdivision 2, is amended to read:

Subd. 2. One third of the members of the first hospital board shall be appointed for a term to expire one year from December 31 next following such appointment, one third for a term to expire two years from such date, and one third for a term to expire three years from such date. Successors to the original board members shall each be elected for terms of three years, and all members shall hold office until their successors are elected and qualify. Terms of all members shall expire on December 31. In case of a vacancy on the hospital board, whether due to death, removal from the district, inability to serve, resignation, or other cause the majority of the remaining members of the hospital board, at its next regular or special meeting, shall make an appointment to fill such vacancy for the then unexpired term. The election of successors to the original board members shall be elected by popular vote of the qualified voters in the hospital district. ~~Such elections and any special elections shall be called and conducted in accordance with the provisions of Minnesota Statutes, Section 447.32, Subdivisions 1, 2, 3, and 4 insofar as the same is applicable.~~

Sec. 2. Laws 1963, chapter 276, section 2, is amended by adding a subdivision to read:

Subd. 2a. The hospital board shall, by resolution, fix a date for an election, not later than December 7 just before the expiration of board members' terms. It shall establish the whole district as a single election precinct and shall desig-

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nate the polling place. Special elections may be called at any time by the hospital board to vote on any matter required by law to be submitted to the voters. Special elections must be held within the same election precinct and at the same polling place as regular elections. Advisory ballots may be submitted by the hospital board on any question it wishes concerning the affairs of the district, but only at a regular election or at a special election required for another purpose.

Sec. 3. Laws 1963, chapter 276, section 2, is amended by adding a subdivision to read:

Subd. 2b. At least two weeks before the first day to file affidavits of candidacy, the clerk of the district shall publish a notice stating the first and last day on which affidavits of candidacy may be filed, the places for filing the affidavits, and the closing time of the last day for filing. The clerk shall post a similar notice. At least two weeks before the election the clerk of the district shall publish a notice of the election, and at least ten days before the election the clerk shall post a notice of the election. A notice required to be published under this subdivision must be published in the official newspaper of the district, or, if a paper has not been designated, in a legal newspaper having general circulation within the district. A notice required to be posted under this subdivision shall be posted in at least one public and conspicuous place within each city and town included in the district. Failure to give notice does not invalidate the election of an officer of the district. A voter may contest a hospital district election in accordance with Minnesota Statutes, chapter 209.

Sec. 4. Laws 1963, chapter 276, section 2, is amended by adding a subdivision to read:

Subd. 2c. (a) A candidate for the hospital board shall file an affidavit of candidacy for the election either as a member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than ten weeks nor less than eight weeks before the election. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 12:00 p.m. on the day after the last day to file affidavits of candidacy.

(b) Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must contain the names of the proposed candidates for each office, the length of the term of each office, and an additional blank space for the insertion of another name by the voter. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers or on a different ballot. The hospital board may also authorize the use of voting machines subject to Minnesota Statutes, chapter 206. At least two election judges shall be appointed to receive the votes. They may be paid by the district at a rate set by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

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(c) After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. If the person elected fails to qualify within 30 days, a majority of the remaining members of the board may appoint a successor, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 5. Laws 1963, chapter 276, section 4, is amended to read:

Sec. 4. **MEETINGS OF THE BOARD.** Regular meetings of the hospital board shall be held at least ~~once a month~~ annually, and may meet more frequently, at such time times and place places as the board shall by resolution determine. Special meetings may be held at any time upon the call of the chairman or of any two other members, upon written notice mailed to each member three days prior to the meeting, or upon such other notice as the board, by resolution, may provide, or without notice, if each member is present or files with the secretary a written consent to the holding of the meeting, which consent may be filed before or after the meeting. Any action within the authority of the board may be taken by the vote of a majority of the members present at a regular or adjourned meeting or at a duly called special meeting if a quorum is present. A majority of all the members of the board shall constitute a quorum, but a lesser number may meet and adjourn from time to time.

Sec. 6. **COUNTY OF SWIFT; CITY OF BENSON: REORGANIZATION OF JOINT POWERS HOSPITAL.**

Subdivision 1. AUTHORIZATION. Any hospital organized and operating under a joint powers agreement between the county of Swift and the city of Benson may be reorganized and operate pursuant to the provisions of sections 6 to 20, upon compliance with subdivision 2.

Subd. 2. REORGANIZATION. In order to effect a reorganization, the existing governing body of the hospital shall file its request for reorganization with the county board of the county of Swift and the city council of the city of Benson and the county board and city council shall then at their next regular meetings consider the establishment of a hospital district under sections 6 to 20. Upon the adoption of resolutions by each political subdivision stating that the reorganization is effective and assigning a name to the hospital district the creation of the hospital district shall be effected.

Subd. 3. REORGANIZATION; DISSOLUTION. After a hospital district is organized under sections 6 to 20, upon approval by the city and the county, it may reorganize and operate under and pursuant to Minnesota Statutes, sections 447.31 to 447.50; or it may be dissolved in accordance with Minnesota Statutes, section 447.38, provided that in that event the county and the city shall be deemed to be the governmental subdivisions that may petition for dissolution and upon dissolution one-third of the assets of the district shall be conveyed to the city and two-thirds shall be conveyed to the county.

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Subd. 4. POLITICAL SUBDIVISION. For the purpose of laws applicable to political subdivisions the hospital district shall be a political subdivision but shall not have taxing authority.

**Sec. 7. HOSPITAL BOARD; APPOINTMENT; TERMS.**

Subdivision 1. GOVERNING BOARD. The hospital district shall be governed by a board of directors of at least nine and not more than 12 voting members, elected as provided in subdivision 2. All members of the hospital board at the time the hospital district is organized shall continue in office until the members of the first board of the hospital district are elected and qualify.

Subd. 2. ELECTION. Three directors shall be elected by the city council and six directors shall be elected by the county board. Up to three additional voting members and additional nonvoting members may be provided for in bylaws adopted pursuant to section 5, subdivision 5. As nearly as possible, one-third of the members of the first board of directors shall be elected for a term to expire one year from the next December 31 following that election, one-third for a term to expire two years from that date, and one-third for a term to expire three years from that date. Each of the political subdivisions electing directors shall assign terms of office to each director according to these staggered terms. Successors to the first board members shall each be elected for terms of three years, and all members shall hold office until their successors are elected and qualify. Terms of office shall expire on December 31. In case of vacancy on the board of directors, whether due to death, removal from the district, inability to serve, resignation, removal by the entity that elected the director, or other cause, the majority of the governing body of the entity that elected the director whose position is vacant shall elect a director to fill such vacancy for the then unexpired term.

Subd. 3. COMPENSATION. The members of the board of directors may receive compensation for their services as such and may be reimbursed for reasonable expenses necessarily incurred in the performance of their duties to the extent provided for in bylaws adopted pursuant to section 5, subdivision 5.

Subd. 4. IMMUNITY FROM LIABILITY. Except as otherwise provided in this subdivision, no person who serves without compensation as a member of the board of directors shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a member of the board, and did not constitute willful or reckless misconduct. This subdivision does not apply to:

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty as a director;

(2) a cause of action to the extent it is based on federal law; or

(3) a cause of action based on the board member's express contractual obligation.

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Nothing in this subdivision shall be construed to limit the liability of a member of the board for physical injury to the person of another or for wrongful death which is personally and directly caused by the board member.

For purposes of this subdivision, the term "compensation" means any thing of value received for services rendered, except:

(1) reimbursement for expenses actually incurred;

(2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees pursuant to Minnesota Statutes, section 15.059, subdivision 3; or

(3) payment by the hospital district of insurance premiums on behalf of a member of the board.

#### Sec. 8. OFFICERS OF THE BOARD.

Subdivision 1. OFFICES; ELECTION. At the first meeting of the board of directors of the hospital district, and at each first regular meeting after December 31, the board shall elect, from their number, a chair, a vice-chair, a secretary, and a treasurer. Each officer elected at the first regular meeting after December 31 shall hold office for one year, and until the officer's successor has been duly elected and qualified. In case of vacancy in any office the chair shall appoint a member to fill the vacancy until the next regular election of officers.

Subd. 2. DUTIES. The officers shall have the duties specified in this subdivision and additional duties as set forth in bylaws adopted in accordance with section 5, subdivision 5. The chair shall preside at all meetings of the board of directors and shall perform all duties usually incumbent upon such an officer. The vice-chair shall preside in the absence of the chair. The secretary shall record the minutes of all meetings of the board and be the custodian of all books and records of the district. The treasurer shall be the custodian of money received by the district and shall see that they are properly accounted for. The board may appoint deputies who shall perform any functions and duties of any officer, subject to the supervision and control of the officer.

#### Sec. 9. MEETINGS OF THE BOARD.

Regular meetings of the board of directors shall be held at least quarterly and more frequently as provided in bylaws of the hospital district, at the time and place as the board shall by resolution determine. The meetings may be held at any time upon the call of the chair or of any two other members, upon written notice mailed to each member three days prior to the meeting, or upon other notice as the board, by resolution or according to bylaws adopted by the board of directors, may provide, or without notice, if each member is present or files with the secretary a written consent to the holding of the meeting, which consent may be filed before or after the meeting. Any action within the authority of the board may be taken by the vote of a majority of the members present at a regu-

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lar or adjourned meeting or at a duly called special meeting if a quorum is present. A majority of all the members of the board shall constitute a quorum, but a lesser number may meet and adjourn from time to time.

#### Sec. 10. THE HOSPITAL DISTRICT AND ITS POWERS.

Subdivision 1. AUTHORITY; STATUS; PREEXISTING OBLIGATION. The hospital district shall have perpetual succession, may contract and be contracted with, may sue and be sued, may, but shall not be required to, use a corporate seal, may acquire real and personal property as it may require, within or without the district, by purchase, gift, devise, lease, condemnation, or otherwise, and may hold, manage, control, sell, convey, or otherwise dispose of such property as its interests require. All of the assets, real and personal, of the preexisting hospital organization owned by the county and the city, doing business as Swift County-Benson Hospital, shall pass to the hospital district in fee title or by lease, and all legally valid and enforceable claims and contract obligations of the preexisting hospital organization shall be assumed by the district. All taxable property in the city of Benson and the county of Swift shall continue to be taxable for the payment of any bonded debt previously incurred by the preexisting hospital or by the city of Benson or the county of Swift on behalf of the preexisting hospital. Any properties, real, personal, or mixed, which are acquired, owned, leased, controlled, used, or occupied by the district shall be exempt from general property taxation by the state or any of its political subdivisions, but nothing in sections 6 to 20, shall prevent the levy of special assessments for public improvements benefiting the property.

Subd. 2. BUDGET. The board of directors shall adopt a budget for each ensuing year and shall provide the budget to the city council and the county board prior to the beginning of the year to which the budget applies. The city council and county board may consider the budget and provide their comments and recommendations to the board of directors.

Subd. 3. POWERS. (a) The hospital district shall have all the powers necessary and convenient to provide for the acquisition, betterment, operation, maintenance, and administration for the hospital, including nursing home, other facilities for the residential occupancy of ambulatory elderly citizens who do not require nursing home or general hospital care and related programs, as the board of directors shall determine to be necessary and expedient. The enumeration of specific powers herein does not restrict the power of the board to take any lawful action which, in the reasonable exercise of its discretion, it deems necessary or convenient for the furtherance of the purpose for which the district exists, whether or not the power to take the action is implied from any of the powers expressly granted. These powers shall include, but not be limited to, the power to:

(1) employ management, administrative, nursing, and other personnel, legal counsel, engineers, architects, accountants, and other qualified persons, who may be paid for their services by monthly salaries, hourly wages, and pension benefits, or by fees as may be agreed on;

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(2) cause reports, plans, studies, and recommendations to be prepared;

(3) when acquiring real and personal property as authorized in subdivision 1, contract for the acquisition by option, contract for deed, conditional sales contract, or otherwise;

(4) construct, equip, and furnish necessary buildings and grounds and maintain the same;

(5) adopt bylaws and rules and regulations to govern the operation and administration of any and all hospital, nursing home, and other facilities under its control, and for the admission of persons thereto;

(6) impose and collect charges for all services and facilities provided and made available by it;

(7) borrow money and issue bonds as prescribed in sections 6 to 20;

(8) procure insurance against liability of the district or its officers and employees, or both, for torts committed within the scope of their official duties, whether governmental or proprietary, or for errors and omissions, and against damage to or destruction of any of its facilities, equipment or other property;

(9) subject to subdivision 4, sell or lease any of its facilities or equipment as may be expedient;

(10) cause annual audits to be made of its accounts, books, vouchers, and funds by competent public accountants; this provision shall be construed to be mandatory;

(11) require a corporate surety bond from officers and employees of the district, and in the amount the board shall determine, and authorize payment of the premiums therefor; or

(12) provide loans to students as provided in Minnesota Statutes, section 447.331.

(b) If the Swift county or Benson hospital is sold or leased to a private organization, the successor employer shall provide hospital employees who were members of the public employees retirement association immediately before the lease or sale a pension program and benefits comparable to those provided by the public employees retirement association.

Subd. 4. APPROVAL FOR SALE OR LEASE. Nothing contained in section 5 shall be construed to authorize the district or its board of directors to at any time sell, lease, or otherwise transfer the management, control or operation of the hospital, including nursing home or other facilities, except upon approval by a majority vote of the county board and the city council.

Subd. 5. BYLAWS. Bylaws shall be adopted to further govern the operation of the hospital district. Bylaws or any amendment or repeal of them, shall first

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be adopted by the board of directors, but shall not take effect until approved by the county board and the city council. Bylaws may address any subject matter pertinent to the organization and operation of the hospital district consistent with sections 6 to 20, and other applicable laws.

**Sec. 11. PAYMENT OF EXPENSES.**

Expenses of acquisition, betterment, administration, operation, and maintenance of the hospital district shall be paid from the revenue derived therefrom and, to the extent authorized by sections 6 to 20, from the proceeds of debt incurred for the benefit of the district, and to the extent determined from time to time by the county board or the city council, from appropriations made by the county board or the city council. Money appropriated by the board of county commissioners and the city council to acquire or improve facilities of the hospital district may be transferred in the discretion of the board of directors to a sinking fund for bonds issued for that purpose. The hospital board may agree to repay to the county and the city any sums appropriated by the county board or the city council for this purpose, out of the net revenues to be derived from operation of its facilities, and subject to the terms agreed on.

**Sec. 12. TEMPORARY BORROWING AUTHORITY.**

Subdivision 1. CERTIFICATES OF INDEBTEDNESS. Subject to the approval of the city and the county, the hospital district may borrow money by issuing certificates of indebtedness in anticipation of revenues and federal aids. Total indebtedness for the certificates must not exceed \$50,000. The proceeds must be used for expenses of administration, operation, and maintenance of the district's hospital, nursing home, or other facilities. The approval of the city and county shall be effected by an affirmative vote of their respective governing bodies.

Subd. 2. RESOLUTION. The district may authorize and borrow and issue the certificates of indebtedness on passage of a resolution specifying the amount and reasons for borrowing. The resolution must be adopted by a vote of at least two-thirds of its board members, excluding board members who may not vote. The board shall fix the amount, date, maturity, form, denomination, and other details of the certificates and the date and place for receipt of bids for their purchase. The board shall direct the secretary to give notice of the date and place fixed.

Subd. 3. TERMS OF CERTIFICATES. Certificates must become due and payable no later than two years from the date of issuance. Certificates must be negotiable and payable to the order of the payee and have a definite due date but may be payable on or before the due date. Certificates must be sold for at least par and accrued interest and must bear interest at not more than eight percent a year. Interest must be payable at maturity or earlier as the board determines. The proceeds of current county or city appropriations, revenues derived from the facilities of the district and future federal aids, and any other district funds that become available must be applied to the extent necessary to repay the certificates.

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**Sec. 13. HOSPITALS, NURSING HOMES, AND OTHER FACILITIES; FINANCING AND LEASING.**

Subdivision 1. FINANCING. Subject to the approval of the city and the county, the hospital district may issue revenue bonds by resolution of its governing body to finance the acquisition and betterment of hospital, nursing home, and other facilities. This power is in addition to other powers granted by law and includes, but is not limited to, the payment of interest during construction and for a reasonable period after construction and the establishment of reserves for bond payment and for working capital. The approval of the city and county shall be effected by an affirmative vote of their respective governing bodies. In connection with the acquisition of any existing hospital or nursing home facilities, the city, county, or district may retire outstanding indebtedness incurred to finance the construction of the existing facilities.

Subd. 2. PLEDGE OF REVENUE. The hospital district may pledge and appropriate the revenues to be derived from its operation of the facilities to pay the principal and interest on the bonds when due and to create and maintain reserves for that purpose, as a first and prior lien on the revenues or, if so provided in the bond resolution, as a lien on the revenues subordinate to the current payment of a fixed amount or percentage or all of the costs of running the facilities.

**Sec. 14. SECURITY FOR BONDS; PLEDGE OF CREDIT FOR BONDS.**

In the issuance of bonds the revenues or rentals must be pledged and appropriated by resolution for the use and benefit of bondholders generally, or may be pledged by the execution of an indenture or other appropriate instrument to a trustee for the bondholders. The site and facilities, or any part of them, may be mortgaged to the trustee. The governing body may enter into any covenants with the bondholders or trustee that it finds necessary and proper to assure the marketability of the bonds, the completion of the facilities, the segregation of the revenues or rentals and other funds pledged, and the sufficiency of funds for prompt and full payment of bonds and interest. The bonds shall be deemed to be payable wholly from the income of a revenue-producing convenience within the meaning of Minnesota Statutes, section 475.58, unless the appropriate governing body also pledges to their payment the full faith and credit of the county or city. In this event, notice of the intent to issue bonds with a pledge of the full faith and credit of the county or city specifying the maximum amount and the purpose of the bond issue shall be published and if, within ten days of the date of publication, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular election is filed with the secretary, the bonds may not be issued unless approved by a majority of the electors voting on the question at a legal election.

**Sec. 15. MISCELLANEOUS PROVISIONS.**

Bonds issued under sections 8 to 13 must be issued and sold as provided in Minnesota Statutes, chapter 475. If the bonds do not pledge the credit of the hospital district as provided in section 10, the governing body may negotiate

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their sale without advertisement for bids. They shall not be included in the net debt of any municipality or county, and are not subject to interest rate limitations, as defined or referred to in Minnesota Statutes, sections 475.51 and 475.55.

#### Sec. 16. LEASE OF FACILITIES TO NONPROFIT OR PUBLIC CORPORATION.

Subject to section 5, subdivision 4, the hospital district may lease hospital, nursing home, or other facilities to be run by a nonprofit or public corporation as community facilities. The facilities must be open to all residents of the community on equal terms. The district may lease related medical facilities to any person, firm, association, or corporation, at rent and on conditions agreed. The term of the lease must not exceed 30 years. The lessee may be granted an option to renew the lease for an additional term or to purchase the facilities. The terms of renewal or purchase must be provided for in the lease. The hospital district may by resolution of its governing body agree to pay to the lessee annually, and to include in each annual budget for hospital and nursing home purposes, a fixed compensation for services agreed to be performed by the lessee in running the hospital, nursing home, or other facilities as a community facility; for any investment by the lessee of its own funds or funds granted or contributed to it in the construction or equipment of the hospital, nursing home, or other facilities; and for any auxiliary services to be provided or made available by the lessee through other facilities owned or operated by it. Services other than those provided for in the lease agreement may be compensated at rates agreed upon later. The lease agreement must, however, require the lessee to pay a net rental not less than the amount required to pay the principal and interest when due on all revenue bonds issued by the hospital district to acquire, improve, and refinance the leased facilities, and to maintain the agreed revenue bond reserve. The lease agreement must not grant the lessee an option to purchase the facilities at a price less than the amount of the bonds issued and interest accrued on them, except bonds and accrued interest paid from the net rentals before the option is exercised.

To the extent that the facilities are leased under this section for use by persons in private medical or dental or similar practice or other private business, a tax on that use must be imposed just as though the user were the owner of the space. It must be collected as provided in Minnesota Statutes, section 272.01, subdivision 2.

#### Sec. 17. REFUNDING BONDS.

The county, city, or hospital district may issue bonds by resolution of its governing body to refund bonds issued for the purposes stated in sections 6 to 20.

#### Sec. 18. SWIFT COUNTY.

The county of Swift may make appropriations in whatever amount it deems appropriate for capital acquisition, capital improvements, maintenance, and

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operating subsidy for a hospital district created under sections 6 to 20, and any other hospital in the county notwithstanding Minnesota Statutes, sections 376.08 and 376.09 or any other limiting statutes or laws otherwise applicable to the county. The county may also guarantee any indebtedness incurred by or on behalf of the hospital and pledge its full faith and credit in support of it.

**Sec. 19. CITY OF BENSON.**

The city of Benson may make appropriations in whatever amount it deems appropriate for the purposes of capital acquisition, capital improvements, maintenance, and operating subsidy for a hospital district created under sections 6 to 20, notwithstanding any limiting statutes or laws otherwise applicable to the city. The city may also guarantee any indebtedness incurred by or on behalf of the hospital and pledge its full faith and credit in support of it.

**Sec. 20. POWERS SUPPLEMENTARY.**

The powers granted in sections 6 to 20 are supplementary to and not in substitution for any other powers possessed by political subdivisions in connection with the acquisition, betterment, administration, operation, and maintenance of hospitals, nursing homes, and related facilities and programs or the creation of hospital districts.

**Sec. 21. EFFECTIVE DATE.**

Sections 1 to 5 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the Yellow Medicine county hospital district.

Sections 6 to 20 are effective upon approval by majority of the county board of the county of Swift and by a majority of the city council of the city of Benson and upon compliance with all other provisions of Minnesota Statutes, section 645.021.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 1:54 p.m.

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**CHAPTER 535—S.F.No. 2111**

*An act relating to living wills; adding certain information to the suggested health care declaration form; amending Minnesota Statutes 1990, section 145B.04.*

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

Section 1. Minnesota Statutes 1990, section 145B.04, is amended to read:

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