

Section 24 is effective for claims for refund filed on or after the day following final enactment.

Presented to the governor May 1, 1997

Signed by the governor May 2, 1997, 3:25 p.m.

CHAPTER 85—S.F.No. 1

An act relating to welfare reform; establishing the Minnesota family investment program—statewide and work first program pilot projects; making changes to public assistance programs; making technical changes; making program integrity initiatives; amending Minnesota Statutes 1996, sections 13.46, subdivisions 1 and 2; 13.82, subdivision 1; 84.98, subdivision 3; 136A.125, subdivision 2; 196.27; 237.70, subdivision 4a; 254B.02, subdivision 1; 256.01, subdivisions 2 and 4a; 256.017, subdivisions 1, 2, and 4; 256.019; 256.031, subdivision 5, and by adding a subdivision; 256.033, subdivisions 1 and 1a; 256.045, subdivision 3; 256.046; 256.736, subdivision 3a; 256.74, subdivision 1, and by adding a subdivision; 256.81; 256.82, subdivision 2; 256.935, subdivision 1; 256.9354, by adding a subdivision; 256.98, subdivisions 1, 4, and 8; 256.981; 256.983, subdivisions 1 and 4; 256.984, subdivision 1; 256.986; 256.9861, subdivisions 1, 2, 4, and 5; 256B.055, subdivisions 3, 5, and by adding a subdivision; 256B.056, subdivisions 1a, 3, and 4; 256B.057, subdivisions 1, 1b, and 2b; 256B.06, subdivision 4, and by adding a subdivision; 256B.062; 256D.01, subdivisions 1, 1a, and 1e; 256D.02, subdivisions 6 and 12a; 256D.03, subdivision 3; 256D.05, subdivisions 1, 2, 5, 7, and 8; 256D.051, subdivisions 1a, 2a, 3a, and by adding a subdivision; 256D.055; 256D.06, subdivision 2; 256D.08, subdivisions 1 and 2; 256D.09, subdivision 6, and by adding a subdivision; 256D.435, subdivision 3; 256D.44, subdivision 5; 256E.03, subdivision 2; 256E.06, subdivisions 1 and 3; 256E.07, subdivision 1; 256E.08, subdivision 3; 256F.05, subdivision 5; 256G.01, subdivision 4; 256G.03, subdivision 2; 256G.05, subdivision 2; 257.3573, subdivision 2; 259.67, subdivision 4; 260.38; 268.0111, subdivisions 5 and 7; 268.0122, subdivision 3; 268.552, subdivision 5; 268.6751, subdivision 1; 268.676, subdivision 1; 268.86, subdivision 2; 268.871, subdivision 1; 268.90, subdivision 2; 268.916; 268.95, subdivision 4; 270A.03, subdivision 5; 388.23, subdivision 1; 393.07, subdivisions 6 and 10; 477A.0122, subdivision 2; and 550.37, subdivision 14; proposing coding for new law in Minnesota Statutes, chapters 256; 256B; and 256D; proposing coding for new law as Minnesota Statutes, chapters 256J; and 256K; repealing Minnesota Statutes 1996, sections 256.12, subdivisions 9, 10, 14, 15, 19, 20, 21, 22, and 23; 256.72; 256.73, subdivisions 1, 1a, 1b, 2, 3a, 3b, 5, 5a, 6, 8, 8a, 9, 10, and 11; 256.7341; 256.7351; 256.7352; 256.7353; 256.7354; 256.7355; 256.7356; 256.7357; 256.7358; 256.7359; 256.736, subdivisions 16 and 18; 256.7365, subdivisions 1, 2, 3, 4, 5, 6, 7, and 9; 256.7366; 256.737; 256.738; 256.7381; 256.7382; 256.7383; 256.7384; 256.7385; 256.7386; 256.7387; 256.7388; 256.739; 256.74, subdivisions 1, 1a, 1b, 2, and 6; 256.745; 256.75; 256.76, subdivision 1; 256.78; 256.80; 256.81; 256.84; 256.85; 256.86; 256.863; 256.871; 256.8711; 256.879; 256D.02, subdivision 5; 256D.0511; and 256D.065.

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

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ARTICLE 1

MINNESOTA FAMILY INVESTMENT PROGRAM—STATEWIDE

Section 1. [256J.01] ESTABLISHING MINNESOTA FAMILY INVESTMENT PROGRAM—STATEWIDE.

Subdivision 1. **IMPLEMENTATION OF MINNESOTA FAMILY INVESTMENT PROGRAM—STATEWIDE (MFIP-S).** This chapter and chapter 256K may be cited as the Minnesota family investment program—statewide (MFIP-S). MFIP-S is the statewide implementation of components of the Minnesota family investment plan (MFIP) authorized under section 256.031 and Minnesota family investment plan—Ramsey county (MFIP-R) in section 256.047.

Subd. 2. **IMPLEMENTATION OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF).** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, eliminates the entitlement program of aid to families with dependent children (AFDC) and replaces it with block grants to states for temporary assistance for needy families (TANF). TANF provides cash assistance for a limited time to families with children and to pregnant women. Minnesota's TANF assistance will be provided through a statewide expansion of MFIP. The modifications specified in this chapter are necessary to comply with the new federal law and to improve MFIP. Eligible applicants and recipients of AFDC, family general assistance, and food stamps will be converted to the MFIP-S program. Effective January 1, 1998, any new application received for family cash assistance will be processed under the rules of chapter 256J. Case maintenance conversion for existing AFDC and FGA cases to MFIP-S as described in chapter 256J will begin January 1, 1998, and continue through March 31, 1998.

Subd. 3. **RELATIONSHIP TO OTHER STATUTES AND RULES.** MFIP-S replaces eligibility for families with children and pregnant women under the general assistance program, governed by sections 256D.01 to 256D.21 and Minnesota Rules, parts 9500.1200 to 9500.1270.

Subd. 4. **CHANGES TO WAIVERS.** The commissioner of human services may negotiate and obtain changes in the federal waivers and terms and conditions contained in MFIP, MFIP-R, and MFIP-S. The commissioner may also terminate federal waivers by directing so in the applicable state plan.

Subd. 5. **COMPLIANCE SYSTEM.** The commissioner shall administer a compliance system for the state's temporary assistance for needy families (TANF) program, the food stamp program, emergency assistance, general assistance, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, preadmission screening, child support program, and alternative care grants under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanction and fiscal disallowances for noncompliance with federal regulations and state statutes.

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Sec. 2. [256J.02] FEDERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT.

Subdivision 1. COMMISSIONER'S AUTHORITY TO ADMINISTER BLOCK GRANT FUNDS. The commissioner of human services is authorized to receive, administer, and expend funds available under the TANF block grant authorized under title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subd. 2. USE OF MONEY. State money appropriated for purposes of this section and TANF block grant money must be used for:

- (1) financial assistance to or on behalf of any minor child who is a resident of this state under section 256J.12;
- (2) employment and training services under this chapter or chapter 256K;
- (3) emergency financial assistance and services under section 256J.48;
- (4) diversionary assistance under section 256J.47; and
- (5) program administration under this chapter.

Subd. 3. CARRY FORWARD OF FEDERAL MONEY. Temporary assistance for needy families block grant money must be appropriated for the purposes in this section and is available until expended.

Subd. 4. AUTHORITY TO TRANSFER. Subject to limitations of title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the legislature may transfer money from the TANF block grant to the child care fund under chapter 119B, or the Title XX block grant under section 256E.07.

Subd. 5. INDIRECT COST LIABILITY. Notwithstanding the provisions of section 16A.127, the statewide and agency indirect cost liability identified as part of the TANF grant for any current fiscal year shall be limited to no more than the amount received in fiscal year 1996.

Sec. 3. [256J.06] COMMUNITY INVOLVEMENT.

The MFIP-S program must be administered in a way that, in addition to the county agency, other sectors in the community such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, program participants, labor unions, and neighborhood associations are involved.

Sec. 4. [256J.08] DEFINITIONS.

Subdivision 1. SCOPE OF DEFINITIONS. The terms used in this chapter have the following meanings unless otherwise provided for by text.

Subd. 2. ABSENT PARENT. "Absent parent" means a minor child's parent who does not live in the same home as the child.

Subd. 3. AGENCY ERROR. "Agency error" means an error that results in an overpayment or underpayment to an assistance unit and is not caused by an applicant's or participant's failure to provide adequate, correct, or timely information about income, property, household composition, or other circumstances.

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Subd. 4. APPEAL. "Appeal" means a written statement from an applicant or participant who requests a hearing under section 256J.31.

Subd. 5. APPLICANT. "Applicant" means a person who has submitted to a county agency an application and whose application has not been acted upon, denied, or voluntarily withdrawn.

Subd. 6. APPLICATION. "Application" means the submission by or on behalf of a family to a county agency of a completed, signed, and dated form, prescribed by the commissioner, that indicates the desire to receive assistance.

Subd. 7. ASSISTANCE UNIT OR MFIP-S ASSISTANCE UNIT. "Assistance unit" or "MFIP-S assistance unit" means a group of mandatory or optional people receiving or applying for MFIP-S benefits together.

Subd. 8. AUTHORIZED REPRESENTATIVE. "Authorized representative" means a person who is authorized, in writing, by an applicant or participant to act on the applicant's or participant's behalf in matters involving the application for assistance or participation in MFIP-S.

Subd. 9. BASIC NEEDS. "Basic needs" means the minimum personal requirements of subsistence and is restricted to food, clothing, shelter, utilities, and other items for which the loss, or lack of basic needs, is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or participant.

Subd. 10. BUDGET MONTH. "Budget month" means the calendar month which the county agency uses to determine the income or circumstances of an assistance unit to calculate the amount of the assistance payment in the payment month.

Subd. 11. CAREGIVER. "Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: legal custodians, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, step-sister, uncle, aunt, first cousin, nephew, niece, person of preceding generation as denoted by prefixes of "great," "great-great," or "great-great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Subd. 12. CLIENT ERROR. "Client error" means an error that results in an overpayment or underpayment and is due to an applicant's or participant's failure to provide adequate, correct, or timely information concerning income, property, household composition, or other circumstances.

Subd. 13. COMMISSIONER. "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subd. 14. CORRECTIVE PAYMENT. "Corrective payment" means an assistance payment that is made to correct an underpayment.

Subd. 15. COUNTABLE INCOME. "Countable income" means earned and unearned income that is not excluded under section 256J.21, subdivision 2, or disregarded under section 256J.21, subdivision 3.

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Subd. 16. COUNTED EARNINGS. “Counted earnings” means the earned income that remains after applicable disregards under section 256J.21, subdivision 4, have been subtracted from gross earned income.

Subd. 17. COUNTY AGENCY. “County agency” means the agency designated by the county board to implement financial assistance for current programs and for MFIP-S and the agency responsible for enforcement of child support collection, and a county or multicounty agency that is authorized under sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer MFIP-S.

Subd. 18. COUNTY BOARD. “County board” means a board of commissioners, a local services agency as defined in chapter 393, a board established under the Joint Powers Act, section 471.59, or a human services board under chapter 402.

Subd. 19. COUNTY OF FINANCIAL RESPONSIBILITY. “County of financial responsibility” means the county that has financial responsibility for providing public assistance as specified in chapter 256G.

Subd. 20. COUNTY OF RESIDENCE. “County of residence” means the county where the caregiver has established a home.

Subd. 21. DATE OF APPLICATION. “Date of application” means the date on which the county agency receives an applicant’s signed application.

Subd. 22. DEEM. “Deem” means to treat all or part of the income of an individual who is not in the assistance unit, but who is financially responsible for members of the assistance unit, as if it were income available to the assistance unit.

Subd. 23. DEPARTMENT. “Department” means the Minnesota department of human services.

Subd. 24. DISREGARD. “Disregard” means earned income that is not counted when determining initial eligibility or ongoing eligibility and calculating the amount of the assistance payment for participants.

Subd. 25. DOCUMENTATION. “Documentation” means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a person, agency, or entity.

Subd. 26. EARNED INCOME. “Earned income” means cash or in-kind income earned through the receipt of wages, salary, commissions, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, and any other profit from activity earned through effort or labor.

Subd. 27. EARNED INCOME TAX CREDIT. “Earned income tax credit” means the payment which can be obtained by a qualified person from an employer or from the Internal Revenue Service as provided by section 290.0671 and United States Code, title 26, subtitle A, chapter 1, subchapter A, part 4, subpart C, section 32.

Subd. 28. EMERGENCY. “Emergency” means a situation or a set of circumstances that causes or threatens to cause destitution to a minor child.

Subd. 29. EQUITY VALUE. “Equity value” means the amount of equity in real or personal property owned by a person and is determined by subtracting any outstanding encumbrances from the fair market value.

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Subd. 30. EXCLUDED TIME. "Excluded time" has the meaning given in section 256G.02.

Subd. 31. EXPEDITED ISSUANCE OF THE FOOD STAMP PORTION. "Expedited issuance of the food stamp portion" means the issuance of the food stamp portion to eligible assistance units on the day of application as provided in section 393.07, subdivision 10a.

Subd. 32. FAIR HEARING OR HEARING. "Fair hearing" or "hearing" means the evidentiary hearing conducted by the department appeals referee to resolve disputes as specified in section 256J.40, or if not applicable, section 256.045.

Subd. 33. FAIR MARKET VALUE. "Fair market value" means the price that an item of a particular make, model, size, material, or condition would sell for on the open market in the particular geographic area.

Subd. 34. FAMILY. "Family" includes:

(1) the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adoptive siblings, together with their natural, adoptive parents, stepparents, or caregiver as defined in subdivision 11; and

(2) a pregnant woman with no other children.

Subd. 35. FAMILY WAGE LEVEL. "Family wage level" means 110 percent of the transitional standard.

Subd. 36. FEDERAL INSURANCE CONTRIBUTION ACT OR FICA. "Federal Insurance Contribution Act" or "FICA" means the federal law under United States Code, title 26, subtitle C, chapter 21, subchapter A, sections 3101 to 3126, that requires withholding or direct payment from earned income.

Subd. 37. FINANCIAL CASE RECORD. "Financial case record" means an assistance unit's financial eligibility file.

Subd. 38. FULL-TIME STUDENT. "Full-time student" means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or post-secondary school, and who meets the school's standard for full-time attendance.

Subd. 39. GENERAL EDUCATIONAL DEVELOPMENT OR GED. "General educational development" or "GED" means the general educational development certification issued by the Minnesota board of education as an equivalent to a secondary school diploma under Minnesota Rules, part 3500.3100, subpart 4.

Subd. 40. GROSS EARNED INCOME. "Gross earned income" means earned income from employment before mandatory and voluntary payroll deductions. Gross earned income includes salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, and profits from other activity earned by an individual's effort or labor. Gross earned income includes uniform and meal allowances if federal income tax is deducted from the allowance. Gross earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash.

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Subd. 41. **GROSS INCOME.** “Gross income” is the sum of gross earned income and unearned income.

Subd. 42. **GROSS RECEIPTS.** “Gross receipts” means the money received by a business before the expenses of the business are deducted.

Subd. 43. **HALF-TIME STUDENT.** “Half-time student” means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or post-secondary school, and who meets the school’s standard of half-time attendance.

Subd. 44. **HOME.** “Home” means the primary place of residence used by a person as the base for day-to-day living and does not include locations used as mail drops.

Subd. 45. **HOMESTEAD.** “Homestead” means the home that is owned by, and is the usual residence of, the assistance unit together with the surrounding property which is not separated from the home by intervening property owned by others. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, do not affect the exemption of the property. Homestead includes an asset that is not real property that the assistance unit uses as a home, such as a vehicle.

Subd. 46. **HOUSEHOLD.** “Household” means a group of persons who live together.

Subd. 47. **INCOME.** “Income” means cash or in-kind benefit, whether earned or unearned, received by or available to an applicant or participant that is not an asset under section 256J.20.

Subd. 48. **INITIAL ELIGIBILITY.** “Initial eligibility” means the determination of eligibility for an MFIP-S applicant.

Subd. 49. **IN-KIND INCOME.** “In-kind income” means income, benefits, or payments which are provided in a form other than money or liquid assets, including the forms of goods, produce, services, privileges, or payments made on behalf of an applicant or participant by a third party.

Subd. 50. **INQUIRY.** “Inquiry” means a communication to a county agency through mail, telephone, or in person, by which a person or authorized representative requests information about public assistance. The county agency shall also treat as an inquiry any communication in which a person requesting assistance offers information about the person’s family circumstances that indicates that eligibility for public assistance may exist.

Subd. 51. **LEGALLY AVAILABLE.** “Legally available” means a person’s right under the law to secure, possess, dispose of, or control income or property.

Subd. 52. **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM OR LIHEAP.** “Low-income home energy assistance program” or “LIHEAP” means the program authorized under United States Code, title 42, chapter 94, subchapter II, sections 8621 to 8629, and administered by the Minnesota department of economic security.

Subd. 53. **LUMP SUM.** “Lump sum” means nonrecurring income that is not excluded in section 256J.21.

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Subd. 54. **MEDICAL ASSISTANCE.** "Medical assistance" means the program established under chapter 256B and Title XIX of the Social Security Act.

Subd. 55. **MFIP-S HOUSEHOLD REPORT FORM.** "MFIP-S household report form" means a form prescribed by the commissioner that a participant uses to report information to a county agency about changes in income and other circumstances.

Subd. 56. **MIGRANT WORKER.** "Migrant worker" means a person who travels away from home on a regular basis, usually with a group of other laborers, to seek employment in an agriculturally related activity.

Subd. 57. **MINNESOTA FAMILY INVESTMENT PROGRAM-STATE-WIDE OR MFIP-S.** "Minnesota family investment program-statewide" or "MFIP-S" means the assistance program authorized in this chapter and chapter 256K.

Subd. 58. **MINNESOTA SUPPLEMENTAL AID OR MSA.** "Minnesota supplemental aid" or "MSA" means the program established under sections 256D.33 to 256D.54.

Subd. 59. **MINOR CAREGIVER.** "Minor caregiver" means a person who:

- (1) is under the age of 18;
- (2) has never been married or otherwise legally emancipated; and
- (3) is either the natural parent of a minor child living in the same household or is eligible for assistance paid to a pregnant woman.

Subd. 60. **MINOR CHILD.** "Minor child" means a child who is living in the same home of a parent or other caregiver, is either less than 18 years of age or is under the age of 19 years and is regularly attending as a full-time student and is expected to complete a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.

Subd. 61. **MONTHLY INCOME TEST.** "Monthly income test" means the test used to determine ongoing eligibility and the assistance payment amount according to section 256J.21.

Subd. 62. **NONRECURRING INCOME.** "Nonrecurring income" means a form of income which is received:

- (1) only one time or is not of a continuous nature; or
- (2) in a prospective payment month but is no longer received in the corresponding retrospective payment month.

Subd. 63. **OVERPAYMENT.** "Overpayment" means the portion of an assistance payment issued by the county agency that is greater than the amount for which the assistance unit is eligible.

Subd. 64. **PARENT.** "Parent" means a child's biological or adoptive parent who is legally obligated to support that child.

Subd. 65. **PARTICIPANT.** "Participant" means a person who is currently receiving cash assistance and the food portion available through MFIP-S as funded by TANF and the food stamp program. A person who fails to withdraw or access electronically any

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portion of his or her cash assistance payment by the end of the payment month or who returns any uncashed assistance check and withdraws from the program is not a participant. A person who withdraws a cash assistance payment by electronic transfer or receives and cashes a cash assistance check and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not receive a cash assistance payment because he or she has been suspended from MFIP-S or because his or her need falls below the \$10 minimum payment level is a participant.

Subd. 66. PAYEE. "Payee" means a person to whom an assistance payment is made payable.

Subd. 67. PAYMENT MONTH. "Payment month" means the calendar month for which the assistance payment is paid.

Subd. 68. PERSONAL PROPERTY. "Personal property" means an item of value that is not real property, including the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, cash surrender value of life insurance, value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts.

Subd. 69. PROBABLE FRAUD. "Probable fraud" means the level of evidence that, if proven as fact, would establish that assistance has been wrongfully obtained.

Subd. 70. PROFESSIONAL CERTIFICATION. "Professional certification" means:

(1) a statement about a person's illness, injury, or incapacity that is signed by a licensed physician, psychological practitioner, or licensed psychologist, qualified by professional training and experience to diagnose and certify the person's condition; or

(2) a statement about an incapacity involving a spinal subluxation condition that is signed by a licensed chiropractor qualified by professional training and experience to diagnose and certify the condition.

Subd. 71. PROSPECTIVE BUDGETING. "Prospective budgeting" means a method of determining the amount of the assistance payment in which the budget month and payment month are the same.

Subd. 72. PROTECTIVE PAYEE. "Protective payee" means a person other than the caregiver of an assistance unit who receives the monthly assistance payment on behalf of an assistance unit and is responsible to provide for the basic needs of the assistance unit to the extent of that payment.

Subd. 73. QUALIFIED NONCITIZEN. "Qualified noncitizen" means a person:

(1) who was lawfully admitted for permanent residence pursuant to United States Code, title 8;

(2) who was admitted to the United States as a refugee pursuant to United States Code, title 8; section 1157;

(3) whose deportation is being withheld pursuant to United States Code, title 8, section 1253(h);

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(4) who was paroled for a period of at least one year pursuant to United States Code, title 8, section 1182(d)(5);

(5) who was granted conditional entry pursuant to United State Code, title 8, section 1153(a)(7);

(6) who was granted asylum pursuant to United States Code, title 8, section 1158; or

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title V of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-208.

Subd. 74. REAL PROPERTY. "Real property" means land and all buildings, structures, and improvements, or other fixtures on the land, belonging or appertaining to the land, and all mines, minerals, fossils, and trees on or under the land.

Subd. 75. REASONABLE COMPENSATION. "Reasonable compensation" means the value received in exchange for property transferred to another owner that is consistent with fair market value and equals or exceeds the seller's equity in the property, reduced by costs incurred in the sale.

Subd. 76. RECERTIFICATION. "Recertification" means the periodic review of eligibility factors to determine an assistance unit's continued eligibility.

Subd. 77. RECOUPMENT. "Recoupment" means the action of the county agency to reduce a family's monthly assistance payment to recover overpayments caused by client or agency error and overpayments received while an appeal is pending.

Subd. 78. RECOVERY. "Recovery" means actions taken by a county agency to reclaim the value of overpayments through voluntary repayment, recoupment from the assistance payment, court action, revenue recapture, or federal tax refund offset program (FTROP).

Subd. 79. RECURRING INCOME. "Recurring income" means a form of income which is:

(1) received periodically, and may be received irregularly when receipt can be anticipated even though the date of receipt cannot be predicted; and

(2) from the same source or of the same type that is received and budgeted in a prospective month and is received in one or both of the first two retrospective months.

Subd. 80. REEMPLOYMENT INSURANCE. "Reemployment insurance" means the insurance benefit paid to an unemployed worker under sections 268.03 to 268.23.

Subd. 81. RETROSPECTIVE BUDGETING. "Retrospective budgeting" means a method of determining the amount of the assistance payment in which the payment month is the second month after the budget month.

Subd. 82. SANCTION. "Sanction" means the reduction of a family's assistance payment by a specified percentage of the applicable transitional standard because: a non-exempt participant fails to comply with the requirements of sections 256J.52 to 256J.55; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with the insurance, tort liability, or other requirements of this chapter.

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Subd. 83. SIGNIFICANT CHANGE. "Significant change" means a decline in gross income of 35 percent or more from the income used to determine the grant for the current month.

Subd. 84. SUPPLEMENTAL SECURITY INCOME OR SSI. "Supplemental Security Income" or "SSI" means the program authorized under title XVI of the Social Security Act.

Subd. 85. TRANSITIONAL STANDARD. "Transitional standard" means the basic standard for a family with no other income or a nonworking family and is a combination of the cash assistance needs and food assistance needs for a family of that size.

Subd. 86. UNEARNED INCOME. "Unearned income" means income received by a person that does not meet the definition of earned income. Unearned income includes income from a contract for deed, interest, dividends, reemployment insurance, disability insurance payments, veterans benefits, pension payments, return on capital investment, insurance payments or settlements, severance payments, and payments for illness or disability whether the premium payments are made in whole or in part by an employer or participant.

Subd. 87. VENDOR. "Vendor" means a provider of goods or services.

Subd. 88. VENDOR PAYMENT. "Vendor payment" means a payment authorized by a county agency to a vendor.

Subd. 89. VERIFICATION. "Verification" means the process a county agency uses to establish the accuracy or completeness of information from an applicant, participant, third party, or other source as that information relates to program eligibility or an assistance payment.

Sec. 5. [256J.09] APPLYING FOR ASSISTANCE.

Subdivision 1. WHERE TO APPLY. A person must apply for assistance at the county agency in the county where that person lives.

Subd. 2. COUNTY AGENCY RESPONSIBILITY TO PROVIDE INFORMATION. A county agency must inform a person who inquires about assistance about eligibility requirements for assistance and how to apply for assistance, including diversionary assistance and emergency assistance. A county agency must offer the person brochures developed or approved by the commissioner that describe how to apply for assistance.

Subd. 3. SUBMITTING THE APPLICATION FORM. A county agency must offer, in person or by mail, the application forms prescribed by the commissioner as soon as a person makes a written or oral inquiry. At that time, the county agency must inform the person that assistance begins with the date the signed application is received by the county agency or the date all eligibility criteria are met, whichever is later. The county agency must inform the applicant that any delay in submitting the application will reduce the amount of assistance paid for the month of application. A county agency must inform a person that the person may submit the application before an interview appointment. To apply for assistance, a person must submit a signed application to the county agency. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at

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any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

Subd. 4. VERIFICATION OF INFORMATION ON APPLICATION. A county agency must verify information provided by an applicant as required in section 256J.32.

Subd. 5. PROCESSING APPLICATIONS. Upon receiving an application, a county agency must determine the applicant's eligibility, approve or deny the application, inform the applicant of its decision according to the notice provisions in section 256J.31, and, if eligible, issue the assistance payment to the applicant. When a county agency is unable to process an application within 30 days, the county agency must inform the applicant of the reason for the delay in writing. When an applicant establishes the inability to provide required verification within the 30-day processing period, the county agency may not use the expiration of that period as the basis for denial.

Subd. 6. INVALID REASON FOR DELAY. A county agency must not delay a decision on eligibility or delay issuing the assistance payment except to establish state residence by:

- (1) treating the 30-day processing period as a waiting period;
- (2) delaying approval or issuance of the assistance payment pending the decision of the county board; or
- (3) awaiting the result of a referral to a county agency in another county when the county receiving the application does not believe it is the county of financial responsibility.

Subd. 7. CHANGES IN RESIDENCE DURING APPLICATION. The requirements in subdivisions 5 and 6 apply without regard to the length of time that an applicant remains, or intends to remain, a resident of the county in which the application is made. When an applicant leaves the county where application was made but remains in the state, section 256J.75 applies and the county agency may request additional information from the applicant about changes in circumstances related to the move.

Subd. 8. ADDITIONAL APPLICATIONS. Until a county agency issues notice of approval or denial, additional applications submitted by an applicant are void. However, an application for monthly assistance and an application for emergency assistance or emergency general assistance may exist concurrently. More than one application for monthly assistance, emergency assistance, or emergency general assistance may exist concurrently when the county agency decisions on one or more earlier applications have been appealed to the commissioner, and the applicant asserts that a change in circumstances has occurred that would allow eligibility. A county agency must require additional application forms or supplemental forms as prescribed by the commissioner when a payee's name changes, or when a caregiver requests the addition of another person to the assistance unit.

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Subd. 9. ADDENDUM TO AN EXISTING APPLICATION. An addendum to an existing application must be used to add persons to an assistance unit regardless of whether the persons being added are required to be in the assistance unit. When a person is added by addendum to an assistance unit, eligibility for that person begins on the first of the month the addendum was filed except as provided in section 256J.74, subdivision 2, clause (1).

Subd. 10. APPLICANTS WHO DO NOT MEET ELIGIBILITY REQUIREMENTS FOR MFIP-S. When an applicant is not eligible for MFIP-S because the applicant does not meet eligibility requirements, the county agency must determine whether the applicant is eligible for food stamps, medical assistance, diversionary assistance, or has a need for emergency assistance when the applicant meets the eligibility requirements for those programs.

Sec. 6. [256J.10] MFIP-S ELIGIBILITY REQUIREMENTS.

To be eligible for MFIP-S, applicants must meet the general eligibility requirements in sections 256J.11 to 256J.15, the property limitations in section 256J.20, and the income limitations in section 256J.21.

Sec. 7. [256J.11] CITIZENSHIP.

Subdivision 1. GENERAL CITIZENSHIP REQUIREMENTS. (a) To be eligible for AFDC or MFIP-S, whichever is in effect, a member of the assistance unit must be a citizen of the United States, a qualified noncitizen as defined in section 256J.08, or a noncitizen who is otherwise residing lawfully in the United States.

(b) A qualified noncitizen who entered the United States on or after August 22, 1996, is eligible for MFIP-S. However, TANF dollars cannot be used to fund the MFIP-S benefits for an individual under this paragraph for a period of five years after the date of entry unless the qualified noncitizen meets one of the following criteria:

(1) was admitted to the United States as a refugee under United States Code, title 8, section 1157;

(2) was granted asylum under United States Code, title 8, section 1158;

(3) was granted withholding of deportation under the United States Code, title 8, section 1253(h);

(4) is a veteran of the United States Armed Forces with an honorable discharge for a reason other than noncitizen status, or is a spouse or unmarried minor dependent child of the same; or

(5) is an individual on active duty in the United States Armed Forces, other than for training, or is a spouse or unmarried minor dependent child of the same.

(c) A person who is not a qualified noncitizen but who is otherwise residing lawfully in the United States is eligible for MFIP-S. However, TANF dollars cannot be used to fund the MFIP-S benefits for an individual under this paragraph.

(d) For purposes of this subdivision, a nonimmigrant in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), or an undocumented immigrant who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service, is not eligible for MFIP-S.

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Subd. 2. NONCITIZENS; MFIP-S FOOD PORTION. For the period January 1, 1998, to June 30, 1998, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but were residing in this state as of July 1, 1997, are eligible for the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision.

Subd. 3. BENEFITS FUNDED WITH STATE MONEY. Legal adult noncitizens who have resided in the country for four years or more, whose benefits are funded entirely with state money, and who are under 70 years of age, must, as a condition of eligibility:

(1) be enrolled in a literacy class, English as a second language class, or a citizen class;

(2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;

(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United States citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this subdivision.

Sec. 8. [256J.12] MINNESOTA RESIDENCE.

Subdivision 1. SIMPLE RESIDENCY. To be eligible for AFDC or MFIP-S, whichever is in effect, a family must have established residency in this state which means the family is present in the state and intends to remain here.

Subd. 1a. 30-DAY RESIDENCY REQUIREMENT. A family is considered to have established residency in this state only when a child or caregiver has resided in this state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. Time spent in a shelter for battered women shall count toward satisfying the 30 day residency requirement.

Subd. 2. EXCEPTIONS. (a) A county shall waive the 30-day residency requirement where unusual hardship would result from denial of assistance.

(b) For purposes of this section, unusual hardship means a family:

(1) is without alternative shelter; or

(2) is without available resources for food.

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(c) For purposes of this subdivision, the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the family is eligible, provided the family does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(d) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from the 30-day residency requirement, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Subd. 3. PAYMENT PLAN FOR NEW RESIDENTS. Assistance paid to an eligible family in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be at the standard and in the form specified in section 256J.43.

Subd. 4. SEVERABILITY CLAUSE. If any subdivision in this section is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining subdivisions shall remain valid and shall be given full effect.

Sec. 9. [256J.13] MINOR CHILD IN ASSISTANCE UNIT; PHYSICAL PRESENCE.

Subdivision 1. MINOR CHILD OR PREGNANT WOMAN. The assistance unit must include at least one minor child or a pregnant woman. If a minor child is a recipient of Supplemental Security Income or Minnesota supplemental aid, the assistance unit is eligible for MFIP-S, but the needs of the minor child receiving Supplemental Security Income or Minnesota supplemental aid must not be taken into account when the county agency determines the amount of the assistance payment to be paid to the assistance unit.

Subd. 2. PHYSICAL PRESENCE. A minor child and a caregiver must live together except as provided in the following paragraphs.

(a) The physical presence requirement is met when a minor child is required to live away from the caregiver's home to meet the need for educational curricula that cannot be met by, but is approved by, the local public school district, the home is maintained for the minor child's return during periodic school vacations, and the caregiver continues to maintain responsibility for the support and care of the minor child.

(b) The physical presence requirement is met when an applicant caregiver or applicant minor child is away from the home due to illness or hospitalization, when the home is maintained for the return of the absent family member, the absence is not expected to last more than six months beyond the month of departure, and the conditions of clause (1), (2), or (3) apply:

(1) when the minor child and caregiver lived together immediately prior to the absence, the caregiver continues to maintain responsibility for the support and care of the minor child, and the absence is reported at the time of application;

(2) when the pregnant mother is hospitalized or out of the home due to the pregnancy; or

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(3) when the newborn child and mother are hospitalized at the time of birth.

(c) The absence of a caregiver or minor child does not affect eligibility for the month of departure when the caregiver or minor child received assistance for that month and lived together immediately prior to the absence. Eligibility also exists in the following month when the absence ends on or before the tenth day of that month. A temporary absence of a caregiver or a minor child which continues beyond the month of departure must not affect eligibility when the home is maintained for the return of the absent family member, the caregiver continues to maintain responsibility for the support and care of the minor child, and one of clauses (1) to (7) applies:

(1) a participant caregiver or participant child is absent due to illness or hospitalization, and the absence is expected to last no more than six months beyond the month of departure;

(2) a participant child is out of the home due to placement in foster care as defined in section 260.015, subdivision 7, when the placement will not be paid under title IV-E of the Social Security Act, and when the absence is expected to last no more than six months beyond the month of departure;

(3) a participant minor child is out of the home for a vacation, the vacation is not with an absent parent, and the absence is expected to last no more than two months beyond the month of departure;

(4) a participant minor child is out of the home due to a visit or vacation with an absent parent, the home of the minor child remains with the caregiver, the absence meets the conditions of this paragraph and the absence is expected to last no more than two months beyond the month of departure;

(5) a participant caregiver is out of the home due to a death or illness of a relative, incarceration, training, or employment search and suitable arrangements have been made for the care of the minor child, or a participant minor child is out of the home due to incarceration, and the absence is expected to last no more than two months beyond the month of departure;

(6) a participant caregiver and a participant minor child are both absent from Minnesota due to a situation described in clause (5), except for incarceration, and the absence is expected to last no more than one month beyond the month of the departure; or

(7) a participant minor child has run away from home, and another person has not made application for that minor child, assistance must continue for no more than two months following the month of departure.

Sec. 10. [256J.14] ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.

(a) The definitions in this paragraph only apply to this subdivision.

(1) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260.242, 525.615, or 525.6165, and related laws; or

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(iii) a caregiver.

(2) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and minor child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the minor child who is in the care of the minor parent must reside in the household of a parent, legal guardian, other appropriate adult relative, or other caregiver, or in an adult-supervised supportive living arrangement in order to receive MFIP-S unless:

(1) the minor parent has no living parent, other appropriate adult relative, or legal guardian whose whereabouts is known;

(2) no living parent, other appropriate adult relative, or legal guardian of the minor parent allows the minor parent to live in the parent's, appropriate adult relative's, or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the minor child or the minor parent's application for MFIP-S;

(4) the physical or emotional health or safety of the minor parent or minor child would be jeopardized if the minor parent and the minor child resided in the same residence with the minor parent's parent, other appropriate adult relative, or legal guardian;
or

(5) an adult supervised supportive living arrangement is not available for the minor parent and the dependent child in the county in which the minor currently resides. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) Minor applicants must be informed orally and in writing about the eligibility requirements and their rights and obligations under the MFIP-S program. The county must advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or minor child would be jeopardized if they resided with the minor parent's parent or legal guardian, then the county worker must make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent or legal guardian due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (2).

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(f) When a minor parent and minor child live with another adult relative, or in an adult-supervised supportive living arrangement, MFIP-S must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child in accordance with section 256J.39, subdivisions 2 to 4.

Sec. 11. [256J.15] OTHER ELIGIBILITY CONDITIONS.

Subdivision 1. ELIGIBILITY WHEN THERE IS SHARED, COURT ORDERED, AND OTHER CUSTODY ARRANGEMENTS. The language of a court order that specifies joint legal or physical custody does not preclude a determination that a parent is absent. Absence must be determined based on the actual facts of the absence according to paragraphs (a) to (c).

(a) When a minor child spends time in each of the parents' homes within a payment month, the minor child's home shall be considered the home in which the majority of the minor child's time is spent. When this time is exactly equal within a payment month, or when the parents alternately live in the minor child's home within a payment month, the minor child's home shall be with that parent who is applying for MFIP-S, unless the minor child's needs for the full payment month have already been met through the provision of assistance to the other parent for that month.

(b) When the physical custody of a minor child alternates between parents for periods of at least one payment month, each parent shall be eligible for assistance for any full payment months the minor child's home is with that parent, except under the conditions in paragraph (c).

(c) When a minor child's home is with one parent for the majority of time in each month for at least nine consecutive calendar months, and that minor child visits or vacations with the other parent under section 256J.13, the minor child's home remains with the first parent even when the stay with the second parent is for all or the majority of the months in the period of the temporary absence.

Subd. 2. ELIGIBILITY DURING LABOR DISPUTES. To receive assistance under MFIP-S, a member of an assistance unit who is on strike must have been an MFIP-S participant on the day before the strike, or have been eligible for MFIP-S on the day before the strike.

The county agency must count the striker's prestrike earnings as current earnings. When a member of an assistance unit who is not in the bargaining unit that voted for the strike does not cross the picket line for fear of personal injury, the assistance unit member is not a striker. Except for a member of an assistance unit who is not in the bargaining unit that voted for the strike and who does not cross the picket line for fear of personal injury, a significant change cannot be invoked as a result of a labor dispute.

Sec. 12. [256J.20] PROPERTY LIMITATIONS.

Subdivision 1. PROPERTY OWNERSHIP PROVISIONS. The county agency must apply paragraphs (a) to (d) to real and personal property. The county agency must use the equity value of legally available real and personal property, except property excluded in subdivisions 2 and 3, to determine whether an applicant or participant is eligible for assistance.

(a) When real or personal property is jointly owned by two or more persons, the county agency shall assume that each person owns an equal share, except that either per-

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son owns the entire sum of a joint personal checking or savings account. When an applicant or participant documents greater or lesser ownership, the county agency must use that greater or lesser share to determine the equity value held by the applicant or participant. Other types of ownership must be evaluated according to law.

(b) Real or personal property owned by the applicant or participant must be presumed legally available to the applicant or participant unless the applicant or participant documents that the property is not legally available to the applicant or participant. When real or personal property is not legally available, its equity value must not be applied against the limits of subdivisions 2 and 3.

(c) An applicant must disclose whether the applicant has transferred real or personal property valued in excess of the property limits in subdivisions 2 and 3 for which reasonable compensation was not received within one year prior to application. A participant must disclose all transfers of property valued in excess of these limits, according to the reporting requirements in section 256J.30, subdivision 9. When a transfer of real or personal property without reasonable compensation has occurred:

(1) the person who transferred the property must provide the property's description, information needed to determine the property's equity value, the names of the persons who received the property, and the circumstances of and reasons for the transfer; and

(2) when the transferred property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or participant.

(d) A participant may build the equity value of real and personal property to the limits in subdivisions 2 and 3.

Subd. 2. REAL PROPERTY LIMITATIONS. Ownership of real property by an applicant or participant is subject to the limitations in paragraphs (a) and (b).

(a) A county agency shall exclude the homestead of an applicant or participant according to clauses (1) to (4):

(1) an applicant or participant who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property;

(2) the total amount of land that can be excluded under this subdivision is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subdivision 1;

(3) when real property that has been used as a home by a participant is sold, the county agency must treat the cash proceeds from the sale as excluded property for six months when the participant intends to reinvest the proceeds in another home and maintains those proceeds, unused for other purposes, in a separate account; and

(4) when the homestead is jointly owned, but the client does not reside in it because of legal separation, pending divorce, or battering or abuse by the spouse or partner, the homestead is excluded.

(b) The equity value of real property that is not excluded under paragraph (a) and which is legally available must be applied against the limits in subdivision 3. When the

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equity value of the real property exceeds the limits under subdivision 3, the applicant or participant may qualify to receive assistance when the applicant or participant continues to make a good faith effort to sell the property and signs a legally binding agreement to repay the amount of assistance, less child support collected by the agency. Repayment must be made within five working days after the property is sold. Repayment to the county agency must be in the amount of assistance received or the proceeds of the sale, whichever is less.

Subd. 3. OTHER PROPERTY LIMITATIONS. To be eligible for MFIP-S, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing recipients. The value of clauses (1) to (18) must be excluded when determining the equity value of real and personal property:

(1) licensed vehicles up to a total market value of less than or equal to \$7,500. The county agency shall apply any excess market value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest market value and count only the market value over \$7,500. The county agency shall count the market value of all other vehicles and apply this amount to the asset limit described in this section. The value of special equipment for a handicapped member of the assistance unit is excluded. To establish the market value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant to document the value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used exclusively for the operation of a self-employment business, and any motor vehicles if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Social Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home used by an applicant or participant as the applicant's or participant's home;

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(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance and emergency assistance payments for the current month's needs;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the budget month;

(15) savings of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the earned income tax credit and Minnesota working family credit in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds; and

(18) money received by a participant of the corps to career program under section 84.0887, subdivision 2, paragraph (b), as a postservice benefit under the federal Ameri-corps Act.

Sec. 13. [256J.21] INCOME LIMITATIONS.

Subdivision 1. INCOME INCLUSIONS. To determine MFIP-S eligibility, the county agency must evaluate income received by members of an assistance unit, or by other persons whose income is considered available to the assistance unit. All payments, unless specifically excluded in subdivision 2, must be counted as income.

Subd. 2. INCOME EXCLUSIONS. (a) The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Job Training Partnership Act, United States Code, title 29, chapter 19, sections 1501 to 1792b;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and,

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after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7) state and federal income tax refunds;

(8) state and federal earned income credits;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) emergency assistance payments;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law Number 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income, including retroactive payments;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) adoption assistance payments under section 259.67;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions;

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(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver or minor child who is at least a half-time student;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved secondary education program;

(28) MFIP-S child care payments under section 119B.05;

(29) all other payments made through MFIP-S to support a caregiver's pursuit of greater self-support;

(30) income a participant receives related to shared living expenses;

(31) reverse mortgages;

(32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law Number 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from the MFIP-S program consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Law Numbers 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parent when determining the grant for the minor parent in households that include a minor parent living with a parent on MFIP-S with other dependent children; and

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(43) income of the minor parent's parent equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with a parent not on MFIP-S when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1.

Subd. 3. INITIAL INCOME TEST. The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP-S, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to the maximum disregard allowed under this chapter and chapter 119B; and

(3) all payments made according to a court order for the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicants who have received AFDC, family general assistance, MFIP, MFIP-R, work first, or MFIP-S in this state within four months of the most recent application for MFIP-S, the employment disregard is 36 percent of the gross earned income.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Subd. 4. MONTHLY INCOME TEST AND DETERMINATION OF ASSISTANCE PAYMENT. The county agency shall determine ongoing eligibility and the assistance payment amount according to the monthly income test. To be eligible for MFIP-S, the result of the computations in paragraphs (a) to (e) must be at least \$1.

(a) Apply a 36 percent income disregard to gross earnings and subtract this amount from the family wage level. If the difference is equal to or greater than the transitional standard, the assistance payment is equal to the transitional standard. If the difference is less than the transitional standard, the assistance payment is equal to the difference. The employment disregard in this paragraph must be deducted every month there is earned income.

(b) All payments made according to a court order for the support of children not living in the assistance unit's household must be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the court order.

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(c) Subtract unearned income dollar for dollar from the transitional standard to determine the assistance payment amount.

(d) When income is both earned and unearned, the amount of the assistance payment must be determined by first treating gross earned income as specified in paragraph (a). After determining the amount of the assistance payment under paragraph (a), unearned income must be subtracted from that amount dollar for dollar to determine the assistance payment amount.

(e) When the monthly income is greater than the transitional or family wage level standard after applicable deductions and the income will only exceed the standard for one month, the county agency must suspend the assistance payment for the payment month.

Subd. 5. DISTRIBUTION OF INCOME. The income of all members of the assistance unit must be counted. Income may also be deemed from ineligible persons to the assistance unit. Income must be attributed to the person who earns it or to the assistance unit according to paragraphs (a) to (c).

(a) Funds distributed from a trust, whether from the principal holdings or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to an applicant or participant. Trusts are presumed legally available unless an applicant or participant can document that the trust is not legally available.

(b) Income from jointly owned property must be divided equally among property owners unless the terms of ownership provide for a different distribution.

(c) Deductions are not allowed from the gross income of a financially responsible household member or by the members of an assistance unit to meet a current or prior debt.

Sec. 14. [256J.24] FAMILY COMPOSITION AND ASSISTANCE STANDARDS.

Subdivision 1. MFIP-S ASSISTANCE UNIT. An MFIP-S assistance unit is either a group of individuals with at least one minor child who live together whose needs, assets, and income are considered together and who receive MFIP-S assistance, or a pregnant woman who receives MFIP-S assistance. Individuals identified in subdivision 2 must be included in the MFIP-S assistance unit. Individuals identified in subdivision 3 must be excluded from the assistance unit. Individuals identified in subdivision 4 may be included in the assistance unit at their option. Individuals not included in the assistance unit who are identified in section 256J.37, subdivision 1 or 2, must have their income considered when determining eligibility and benefits for an MFIP-S assistance unit. All assistance unit members, whether mandatory or elective, who live together and for whom one caregiver or two caregivers apply must be included in a single assistance unit.

Subd. 2. MANDATORY ASSISTANCE UNIT COMPOSITION. Except for minor caregivers who are in a separate assistance unit, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child;
- (2) the minor child's siblings, half-siblings, and step-siblings; and
- (3) the minor child's natural, adoptive parents, and stepparents.

New language is indicated by underline, deletions by strikeout.

Subd. 3. INDIVIDUALS WHO MUST BE EXCLUDED FROM AN ASSISTANCE UNIT. The following individuals must be excluded from an assistance unit:

(1) individuals receiving Supplemental Security Income or Minnesota supplemental aid;

(2) individuals living at home while performing court-imposed, unpaid community service work due to a criminal conviction;

(3) individuals disqualified from the food stamp program or MFIP-S, until the disqualification ends;

(4) children on whose behalf foster care payments under title IV-E of the Social Security Act are made, except as provided in section 256J.74, subdivision 2; and

(5) children receiving ongoing monthly adoption assistance payments under section 269.67.

Subd. 4. INDIVIDUALS WHO MAY ELECT TO BE INCLUDED IN THE ASSISTANCE UNIT. The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the relative caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

Subd. 5. MFIP-S TRANSITIONAL STANDARD. The following table represents the MFIP-S transitional standard table when all members of the assistance unit are eligible for both food and cash assistance.

<u>Number of Eligible People</u>	<u>Standard</u>
<u>1</u>	<u>\$351</u>
<u>2</u>	<u>\$609</u>
<u>3</u>	<u>\$763</u>
<u>4</u>	<u>\$903</u>
<u>5</u>	<u>\$1,025</u>
<u>6</u>	<u>\$1,165</u>
<u>7</u>	<u>\$1,273</u>
<u>8</u>	<u>\$1,403</u>
<u>9</u>	<u>\$1,530</u>
<u>10</u>	<u>\$1,653</u>
<u>over 10</u>	<u>add \$121 per additional member.</u>

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10.

Subd. 6. APPLICATION OF ASSISTANCE STANDARDS. The standards apply to the number of eligible persons in the assistance unit.

Subd. 7. FAMILY WAGE LEVEL STANDARD. The family wage level standard is 110 percent of the transitional standard under subdivision 5 and is the standard used when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. Assistance payments may not exceed the transitional standard for the assistance unit.

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Sec. 15. [256J.25] RETURN OF UTILITY DEPOSIT.

A county may require that assistance paid under MFIP-S in the form of a utility deposit less any amount retained to satisfy outstanding utility costs be returned to the county when the person vacates the premises or be paid for the person's new housing unit as a vendor payment.

Sec. 16. [256J.26] PERSONS INELIGIBLE; VENDOR PAYMENTS.

Subdivision 1. PERSON CONVICTED OF DRUG OFFENSES. (a) Applicants who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

(1) benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit;

(2) the convicted applicant shall be subject to random drug testing as a condition of continued eligibility and is subject to sanctions under section 256J.46 following any positive test for an illegal controlled substance.

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Subd. 2. PAROLE VIOLATORS. An individual violating a condition of probation or parole or supervised release imposed under federal law or the law of any state is ineligible to receive AFDC or MFIP-S.

Subd. 3. FLEEING FELONS. An individual who is fleeing to avoid prosecution, or custody, or confinement after conviction for a crime that is a felony under the laws of the jurisdiction from which the individual flees, or in the case of New Jersey, is a high misdemeanor, is ineligible to receive AFDC or MFIP-S.

Subd. 4. DENIAL OF ASSISTANCE FOR TEN YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCY. An individual who is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states is ineligible to receive AFDC or MFIP-S for ten years beginning on the date of the conviction.

Sec. 17. [256J.28] PROVISIONS RELATED SPECIFICALLY TO FOOD STAMP ASSISTANCE.

Subdivision 1. EXPEDITED ISSUANCE OF FOOD STAMP ASSISTANCE. The following households are entitled to expedited issuance of food stamp assistance:

(1) households with less than \$150 in monthly gross income provided their liquid assets do not exceed \$100;

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(2) migrant or seasonal farm worker households who are destitute as defined in Code of Federal Regulations, title 7, subtitle B, chapter 2, subchapter C, part 273, section 273.10, paragraph (e)(3), provided their liquid assets do not exceed \$100; and

(3) eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

The benefits issued through expedited issuance of food stamp assistance must be deducted from the amount of the full monthly MFIP-S assistance payment and a supplemental payment for the difference must be issued.

Subd. 2. FOOD STAMPS FOR HOUSEHOLD MEMBERS NOT IN THE ASSISTANCE UNIT. (a) For household members who purchase and prepare food with the MFIP-S assistance unit but are not part of the assistance unit, the county agency must determine a separate food stamp benefit based on regulations agreed upon with the United States department of agriculture.

(b) This subdivision does not apply to optional members who have chosen not to be in the assistance unit.

(c) Fair hearing requirements for persons who receive food stamps under this subdivision are governed by section 256.045, and Code of Federal Regulations, title 7, subtitle B, chapter II, part 273, section 273.15.

Subd. 3. INCOME DISREGARD FOR CERTAIN PROGRAMS, FOOD ASSISTANCE PORTION OF ASSISTANCE PAYMENT. The portion of the MFIP-S assistance payment that is designated by the commissioner as the food assistance portion of the assistance payment must be disregarded as income in the following programs:

- (1) housing subsidy programs;
 - (2) low-income home energy assistance program;
 - (3) Supplemental Security Income, when determining interim assistance amount;
- and
- (4) other programs that do not count food stamps as income.

For the purposes of this subdivision, the food assistance portion of the assistance payment means a predetermined portion of the MFIP-S assistance payment that may be received in point-of-purchase sites or as food stamps. The predetermined portion of the assistance payment will vary by family profile, which is based on family size.

Subd. 4. FOOD PORTION OF MFIP-S ASSISTANCE GRANT. (a) The MFIP-S assistance grant must be reduced in an amount equal to the food portion of the transitional standard for an assistance unit when a relative caregiver chooses not to be part of the assistance unit and is exempt from work activities under this chapter.

(b) The food portion of the MFIP-S grant must be reduced by \$30 for MFIP-S recipients who are also recipients of public housing subsidies.

Sec. 18. [256J.30] APPLICANT AND PARTICIPANT REQUIREMENTS AND RESPONSIBILITIES.

Subdivision 1. APPLICANT REPORTING REQUIREMENTS. An applicant must provide information on an application form and supplemental forms about the ap-

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plicant's circumstances which affect MFIP-S eligibility or the assistance payment. An applicant must report changes identified in subdivision 9 while the application is pending. When an applicant does not accurately report information on an application, both an overpayment and a referral for a fraud investigation may result. When an applicant does not provide information or documentation, the receipt of the assistance payment may be delayed or the application may be denied depending on the type of information required and its effect on eligibility.

Subd. 2. REQUIREMENT TO APPLY FOR OTHER BENEFITS. An applicant or participant must apply for and follow through with appealing any denials of eligibility for benefits from other programs for which the applicant or participant is potentially eligible and which would, if received, offset assistance payments. An applicant's or participant's failure to complete application for these benefits without good cause results in denial or termination of assistance. Good cause for failure to apply for these benefits is allowed when circumstances beyond the control of the applicant or participant prevent the applicant or participant from making an application.

Subd. 3. RESPONSIBILITY TO INQUIRE. An applicant or participant who does not know or is unsure whether a given change in circumstances will affect the applicant's or participant's MFIP-S eligibility or assistance payment must contact the county agency for information.

Subd. 4. PARTICIPANT'S COMPLETION OF RECERTIFICATION OF ELIGIBILITY FORM. A participant must complete forms prescribed by the commissioner which are required for recertification of eligibility according to section 256J.32, subdivision 6.

Subd. 5. MONTHLY MFIP-S HOUSEHOLD REPORTS. Each assistance unit with a member who has earned income or a recent work history, and each assistance unit that has income deemed to it from a financially responsible person must complete a monthly MFIP-S household report form. "Recent work history" means the individual received earned income in the report month or any of the previous three calendar months even if the earnings are excluded. To be complete, the MFIP-S household report form must be signed and dated by the caregivers no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered, and documentation of earned income must be included.

Subd. 6. SIX-MONTH MFIP-S HOUSEHOLD REPORT. Assistance units that are not required to report monthly under subdivision 5 must complete an MFIP-S household report form every six months. To be complete, the MFIP-S household report form must be signed and dated by the caregiver or caregivers no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered and documentation of earned income must be included.

Subd. 7. DUE DATE OF MFIP-S HOUSEHOLD REPORT. An MFIP-S household report form must be received by the county agency by the eighth calendar day of the month following the reporting period covered by the form. When the eighth calendar day of the month falls on a weekend or holiday, the MFIP-S household report form must be received by the county agency the first working day that follows the eighth calendar day. The county agency must send a notice of termination because of a late or incomplete MFIP-S household report form.

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Subd. 8. LATE MFIP-S HOUSEHOLD REPORT FORMS. Paragraphs (a) to (d) apply to the reporting requirements in subdivision 7.

(a) When a caregiver submits an incomplete MFIP-S household report form before the last working day of the month on which a ten-day notice of termination can be issued, the county agency must return the incomplete form on or before the ten-day notice deadline or any previously sent ten-day notice of termination is invalid.

(b) When a complete MFIP-S household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency must send a notice of proposed termination of assistance. When a caregiver submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the caregiver submits a complete form before the end of the month.

(c) An assistance unit required to submit an MFIP-S household report form is considered to have continued its application for assistance if a complete MFIP-S household report form is received within a calendar month after the month in which assistance was received and assistance shall be paid for the period beginning with the first day of the month in which the report was due.

(d) A county agency must allow good cause exemptions from the reporting requirements under subdivisions 5 and 6 when any of the following factors cause a caregiver to fail to provide the county agency with a completed MFIP-S household report form before the end of the month in which the form is due:

- (1) an employer delays completion of employment verification;
- (2) a county agency does not help a caregiver complete the MFIP-S household report form when the caregiver asks for help;
- (3) a caregiver does not receive an MFIP-S household report form due to mistake on the part of the department or the county agency or due to a reported change in address;
- (4) a caregiver is ill, or physically or mentally incapacitated; or
- (5) some other circumstance occurs that a caregiver could not avoid with reasonable care which prevents the caregiver from providing a completed MFIP-S household report form before the end of the month in which the form is due.

Subd. 9. CHANGES THAT MUST BE REPORTED. A caregiver must report the changes or anticipated changes specified in clauses (1) to (16) within ten days of the date they occur, within ten days of the date the caregiver learns that the change will occur, at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to (16) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment sub-

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sequent to that notice must be considered a client error overpayment under section 256J.38. Changes in circumstances which must be reported within ten days must also be reported on the MFIP-S household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

- (1) a change in initial employment;
- (2) a change in initial receipt of unearned income;
- (3) a recurring change in unearned income;
- (4) a nonrecurring change of unearned income that exceeds \$30;
- (5) the receipt of a lump sum;
- (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- (7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis of exemption from an MFIP-S work and training program;
- (8) a change in employment status;
- (9) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child;
- (10) a change in health insurance coverage;
- (11) the marriage or divorce of an assistance unit member;
- (12) the death of a parent, minor child, or financially responsible person;
- (13) a change in address or living quarters of the assistance unit;
- (14) the sale, purchase, or other transfer of property;
- (15) a change in school attendance of a custodial parent or an employed child; and
- (16) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party.

Subd. 10. COOPERATION WITH HEALTH CARE BENEFITS. (a) The caregiver of a minor child must cooperate with the county agency to identify and provide information to assist the county agency in pursuing third-party liability for medical services.

(b) A caregiver must assign to the department any rights to health insurance policy benefits the caregiver has during the period of MFIP-S eligibility.

(c) A caregiver must identify any third party who may be liable for care and services available under the medical assistance program on behalf of the applicant or participant and all other assistance unit members.

(d) When a participant refuses to identify any third party who may be liable for care and services, the recipient must be sanctioned as provided in section 256J.46, subdivision 1. The recipient is also ineligible for medical assistance for a minimum of one month and until the recipient cooperates with the requirements of this subdivision.

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Subd. 11. REQUIREMENT TO ASSIGN SUPPORT AND MAINTENANCE RIGHTS. To be eligible for MFIP-S, the caregiver must assign all rights to child support and spousal maintenance benefits according to section 256.74, subdivision 5, and section 256.741, if enacted.

Subd. 12. REQUIREMENT TO PROVIDE SOCIAL SECURITY NUMBERS. Each member of the assistance unit must provide the member's social security number to the county agency, except for members in the assistance unit who are qualified noncitizens who are victims of domestic violence as defined under section 256J.08, subdivision 73, clause (7). When a social security number is not provided to the county agency for verification, this requirement is satisfied when each member of the assistance unit cooperates with the procedures for verification of numbers, issuance of duplicate cards, and issuance of new numbers which have been established jointly between the Social Security Administration and the commissioner.

Sec. 19. [256J.31] APPLICANT AND PARTICIPANT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES.

Subdivision 1. RIGHT TO INFORMATION. An applicant or participant has the right to obtain from the county agency information about the benefits, requirements, restrictions, and appeal provisions of public assistance programs.

Subd. 2. RIGHT TO AUTHORIZED REPRESENTATIVE. An applicant or participant has the right to designate an authorized representative to act on the applicant's or participant's behalf. An applicant or participant has the right to be assisted or represented by an authorized representative in eligibility determinations, recertification, conciliation conferences, the fair hearing process, and any other contacts with the county agency or the department. When a county agency determines that it is necessary for a person to assist an applicant or participant, the county agency must designate a staff member to assist the applicant or participant. Upon a request from an applicant or participant, a county agency must provide addresses and telephone numbers of organizations that provide legal services at low cost or no cost to low-income persons.

Subd. 3. RIGHT OF APPLICANT TO NOTICE. A county agency must notify an applicant of the disposition of the applicant's application. The notice must be in writing and on forms prescribed by the commissioner. The county agency must mail the notice to the last known mailing address provided by the applicant. When an application is denied, the county agency must notify the applicant in writing of the reasons for the denial, of the right to appeal, and of the right to reapply for assistance.

Subd. 4. PARTICIPANT'S RIGHT TO NOTICE. A county agency must give a participant written notice of all adverse actions affecting the participant including payment reductions, suspensions, terminations, and use of protective, vendor, or two-party payments. The notice of adverse action must be on a form prescribed or approved by the commissioner and must be mailed to the last known mailing address provided by the participant. The county agency must state on the notice of adverse action the action it intends to take, the reasons for the action, the participant's right to appeal the action, the conditions under which assistance can be continued pending an appeal decision, and the related consequences of the action.

Subd. 5. MAILING OF NOTICE. The notice of adverse action shall be issued according to paragraphs (a) to (c).

New language is indicated by underline, deletions by strikeout.

(a) A county agency shall mail a notice of adverse action at least ten days before the effective date of the adverse action, except as provided in paragraphs (b) and (c).

(b) A county agency must mail a notice of adverse action at least five days before the effective date of the adverse action when the county agency has factual information that requires an action to reduce, suspend, or terminate assistance based on probable fraud.

(c) A county agency shall mail a notice of adverse action before or on the effective date of the adverse action when the county agency:

(1) receives the caregiver's signed monthly MFIP-S household report form that includes information that requires payment reduction, suspension, or termination;

(2) is informed of the death of a participant or the payee;

(3) receives a signed statement from the caregiver that assistance is no longer wanted;

(4) receives a signed statement from the caregiver that provides information that requires the termination or reduction of assistance;

(5) verifies that a member of the assistance unit is absent from the home and does not meet temporary absence provisions in section 256J.13;

(6) verifies that a member of the assistance unit has entered a regional treatment center or a licensed residential facility for medical or psychological treatment or rehabilitation;

(7) verifies that a member of an assistance unit has been placed in foster care, and the provisions of section 256J.13, subdivision 2, paragraph (b), do not apply;

(8) verifies that a member of an assistance unit has been approved to receive assistance by another state; or

(9) cannot locate a caregiver.

Subd. 6. APPEAL RIGHTS. An applicant, participant, or former participant has the right to request a fair hearing when aggrieved by an action or inaction of a county agency. A request for a fair hearing and rights pending a fair hearing are set as specified in section 256J.40.

Subd. 7. CASE RECORDS AVAILABLE. A county agency must make financial case records available to the participant or former participant as soon as possible but no later than the fifth business day following the date of the request. When the participant or former participant asks for photocopies of material from the financial case record, the county agency must provide one copy of each page at no cost.

Subd. 8. RIGHT TO MANAGE AFFAIRS. Except for protective payment provisions authorized under section 256J.39, participants have the right to manage their own affairs.

Subd. 9. RIGHT TO PROTECTION. Minor caregivers have the right to protection. The county agency must refer a minor caregiver to the social service unit within 30 days of the date the application is approved. The social service unit must assist the caregiver who is less than 18 years of age to develop a plan as specified in section 256J.54.

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Subd. 10. PROTECTION FROM GARNISHMENT. MFIP-S grants or earnings of a caregiver while participating in full or part-time employment or training shall be protected from garnishment. This protection for earnings shall extend for a period of six months from the date of termination from MFIP-S.

Subd. 11. RESPONSIBILITY TO RETAIN CASE RECORDS. The county agency must retain financial case records and employment and training service records for MFIP-S cases according to chapter 13.

Sec. 20. [256J.315] COUNTY AND TRIBAL COOPERATION.

The county agency must cooperate with tribal governments in the implementation of MFIP-S to ensure that the program meets the special needs of persons living on Indian reservations. This cooperation must include, but is not limited to, the sharing of MFIP-S duties including initial screening, orientation, assessments, and provision of employment and training services. The county agency shall encourage tribal governments to assume duties related to MFIP-S and shall work cooperatively with tribes that have assumed responsibility for a portion of the MFIP-S program to expand tribal responsibilities, if that expansion is requested by the tribe.

Sec. 21. [256J.32] DOCUMENTING, VERIFYING, AND RECERTIFYING ELIGIBILITY.

Subdivision 1. VERIFICATION OF INFORMATION. A county agency must only require verification of information necessary to determine MFIP-S eligibility and the amount of the assistance payment.

Subd. 2. DOCUMENTATION. The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. When an applicant or participant and the county agency are unable to obtain documents needed to verify information, the county agency may accept an affidavit from an applicant or participant as sufficient documentation.

Subd. 3. CONTACTING THIRD PARTIES. A county agency must not request information about an applicant or participant that is not of public record from a source other than county agencies, the department, or the United States Department of Health and Human Services without the person's prior written consent. An applicant's signature on an application form constitutes consent for contact with the sources specified on the application. A county agency may use a single consent form to contact a group of similar sources, such as banks or insurance agencies, but the sources to be contacted must be identified by the county agency prior to requesting an applicant's consent.

Subd. 4. FACTORS TO BE VERIFIED. The county agency shall verify the following at application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of a minor child to caregivers in the assistance unit;

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- (4) age, if necessary to determine MFIP-S eligibility;
- (5) immigration status;
- (6) social security number in accordance with the requirements of section 256J.30, subdivision 12;
- (7) income;
- (8) self-employment expenses used as a deduction;
- (9) source and purpose of deposits and withdrawals from business accounts;
- (10) spousal support and child support payments made to persons outside the household;
- (11) real property;
- (12) vehicles;
- (13) checking and savings accounts;
- (14) savings certificates, savings bonds, stocks, and individual retirement accounts;
- (15) pregnancy, if related to eligibility;
- (16) inconsistent information, if related to eligibility;
- (17) medical insurance;
- (18) anticipated graduation date of an 18-year-old;
- (19) burial accounts;
- (20) school attendance, if related to eligibility; and
- (21) residence.

Subd. 5. VERIFICATION OF IMMIGRATION STATUS. An applicant's written authorization is required before the county agency contacts the Immigration and Naturalization Service to verify immigration status under subdivision 4, clause (5). However, refusal to provide such authorization is grounds for a finding of ineligibility if the applicant fails to produce proof of eligible immigration status.

Subd. 5a. INCONSISTENT INFORMATION. When the county agency verifies inconsistent information under subdivision 4, clause (16), or under subdivision 6, clause (4), the reason for verifying the information must be documented in the financial case record.

Subd. 6. RECERTIFICATION. The county agency shall recertify eligibility in an annual face-to-face interview with the participant and verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit; and

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(4) inconsistent information, if related to eligibility.

Sec. 22. [256J.33] PROSPECTIVE AND RETROSPECTIVE DETERMINATION OF MFIP-S ELIGIBILITY.

Subdivision 1. DETERMINATION OF ELIGIBILITY. A county agency must determine MFIP-S eligibility prospectively for a payment month based on retrospectively assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, a county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine MFIP-S eligibility and the assistance payment amount, a county agency must apply countable income, described in section 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections 256J.21 and 256J.37, subdivisions 1 and 2.

This income must be applied to the transitional standard or family wage standard subject to this section and sections 256J.34 to 256J.36. Income received in a calendar month and not otherwise excluded under section 256J.21, subdivision 2, must be applied to the needs of an assistance unit.

Subd. 2. PROSPECTIVE ELIGIBILITY. A county agency must determine whether the eligibility requirements that pertain to an assistance unit, including those in sections 256J.11 to 256J.15 and 256J.20, will be met prospectively for the payment month. Except for the provisions in section 256J.34, subdivision 1, the income test will be applied retrospectively.

Subd. 3. RETROSPECTIVE ELIGIBILITY. After the first two months of MFIP-S eligibility, a county agency must continue to determine whether an assistance unit is prospectively eligible for the payment month by looking at all factors other than income and then determine whether the assistance unit is retrospectively income eligible by applying the monthly income test to the income from the budget month. When the monthly income test is not satisfied, the assistance payment must be suspended when ineligibility exists for one month or ended when ineligibility exists for more than one month.

Subd. 4. MONTHLY INCOME TEST. A county agency must apply the monthly income test retrospectively for each month of MFIP-S eligibility. An assistance unit is not eligible when the countable income equals or exceeds the transitional standard or the family wage level for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment, prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 3, and the allocations in section 256J.36, unless the employment income is specifically excluded under section 256J.21, subdivision 2;

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 3, and the allocations in section 256J.36;

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(3) unearned income after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, unless the income has been specifically excluded in section 256J.21, subdivision 2;

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support and spousal support received or anticipated to be received by an assistance unit;

(6) the income of a parent when that parent is not included in the assistance unit;

(7) the income of an eligible relative and spouse who seek to be included in the assistance unit; and

(8) the unearned income of a minor child included in the assistance unit.

Subd. 5. WHEN TO TERMINATE ASSISTANCE. When an assistance unit is ineligible for MFIP-S assistance for two consecutive months, the county agency must terminate MFIP-S assistance.

Sec. 23. [256J.34] CALCULATING PAYMENTS; SIGNIFICANT CHANGE; INCOME AVERAGING.

Subdivision 1. PROSPECTIVE BUDGETING. A county agency must use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received assistance in this state for at least one payment month preceding the first month of payment under a current application. Prospective budgeting is not subject to overpayments or underpayments unless fraud is determined under section 256.98.

(a) The county agency must apply the income received or anticipated in the first month of MFIP-S eligibility against the need of the first month. The county agency must apply the income received or anticipated in the second month against the need of the second month.

(b) When the assistance payment for any part of the first two months is based on anticipated income, the county agency must base the initial assistance payment amount on the information available at the time the initial assistance payment is made.

(c) The county agency must determine the assistance payment amount for the first two months of MFIP-S eligibility by budgeting both recurring and nonrecurring income for those two months.

(d) The county agency must budget the child support income received or anticipated to be received by an assistance unit to determine the assistance payment amount from the month of application through the date in which MFIP-S eligibility is determined and assistance is authorized. Child support income which has been budgeted to determine the assistance payment in the initial two months is considered nonrecurring income. An assistance unit must forward any payment of child support to the child support enforcement unit of the county agency following the date in which assistance is authorized.

Subd. 2. RETROSPECTIVE BUDGETING. The county agency must use retrospective budgeting to calculate the monthly assistance payment amount after the payment for the first two months has been made under subdivision 1.

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Subd. 3. ADDITIONAL USES OF RETROSPECTIVE BUDGETING. Notwithstanding subdivision 1, the county agency must use retrospective budgeting to calculate the monthly assistance payment amount for the first two months under paragraphs (a) and (b).

(a) The county agency must use retrospective budgeting to determine the amount of the assistance payment in the first two months of MFIP-S eligibility:

(1) when an assistance unit applies for assistance for the same month for which assistance has been interrupted, the interruption in eligibility is less than one payment month, the assistance payment for the preceding month was issued in this state, and the assistance payment for the immediately preceding month was determined retrospectively; or

(2) when a person applies in order to be added to an assistance unit, that assistance unit has received assistance in this state for at least the two preceding months, and that person has been living with and has been financially responsible for one or more members of that assistance unit for at least the two preceding months.

(b) Except as provided in clauses (1) to (4), the county agency must use retrospective budgeting and apply income received in the budget month by an assistance unit and by a financially responsible household member who is not included in the assistance unit against the appropriate transitional or family wage level standard to determine the assistance payment to be issued for the payment month.

(1) When a source of income ends prior to the third payment month, that income is not considered in calculating the assistance payment for that month. When a source of income ends prior to the fourth payment month, that income is not considered when determining the assistance payment for that month.

(2) When a member of an assistance unit or a financially responsible household member leaves the household of the assistance unit, the income of that departed household member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the assistance unit.

(3) When an individual is removed from an assistance unit because the individual is no longer a minor child, the income of that individual is not budgeted retrospectively for payment months in which that individual is not a member of the assistance unit, except that income of an ineligible child in the household must continue to be budgeted retrospectively against the child's needs when the parent or parents of that child request allocation of their income against any unmet needs of that ineligible child.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Subd. 4. SIGNIFICANT CHANGE IN GROSS INCOME. The county agency must recalculate the assistance payment when an assistance unit experiences a significant change, as defined in section 256J.08, resulting in a reduction in the gross income received in the payment month from the gross income received in the budget month. The county agency must issue a supplemental assistance payment based on the county agency's best estimate of the assistance unit's income and circumstances for the payment

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month. Budget adjustments that result from significant changes are limited to two in a 12-month period regardless of the reason for the change. Budget adjustments due to a significant change in the amount of direct support received must not be made after the date the assistance unit is required to forward support to the child support enforcement unit under subdivision 1, paragraph (d).

Subd. 5. INCOME AVERAGING FOR PARTICIPANTS PAID WEEKLY OR BIWEEKLY. For the purposes of stabilizing assistance payments, the county agency may average income for participants paid weekly or biweekly. Monthly income may be computed by adding income from all paychecks, dividing the sum by the number of paychecks, and multiplying the results by 4.3 if paychecks are weekly or 2.16 if paychecks are biweekly. The county agency may not use income averaging unless discussed with the participant and requested by the participant.

Sec. 24. [256J.35] AMOUNT OF ASSISTANCE PAYMENT.

Except as provided in paragraphs (a) to (c), the amount of an assistance payment is equal to the difference between the transitional standard or the family wage level in section 256J.24 and countable income.

(a) When MFIP-S eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all other eligibility factors are met for that applicant, whichever is later. This provision applies when an applicant loses at least one day of MFIP-S eligibility.

(b) MFIP-S overpayments to an assistance unit must be recouped according to section 256J.38, subdivision 4.

(c) An initial assistance payment must not be made to an applicant who is not eligible on the date payment is made.

Sec. 25. [256J.36] ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible who also lives with the caregiver. An allocation is allowed from the caregiver's income to meet the need of an ineligible or excluded person. That allocation is allowed in an amount up to the difference between the MFIP-S family allowance for the assistance unit when that excluded or ineligible person is included in the assistance unit and the MFIP-S family allowance for the assistance unit when the excluded or ineligible person is not included in the assistance unit. These allocations must be deducted from the caregiver's counted earnings and from unearned income subject to paragraphs (a) and (b).

(a) Income of a minor child in the assistance unit must not be allocated to meet the need of a person who is not a member of the assistance unit, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of an assistance unit must not be allocated to meet the needs of a person ineligible for failure to cooperate with program requirements including child support requirements, a person ineligible due to fraud, or a relative caregiver and the caregiver's spouse who opt out of the assistance unit.

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Sec. 26. [256J.37] TREATMENT OF INCOME AND LUMP SUMS.

Subdivision 1. DEEMED INCOME FROM INELIGIBLE HOUSEHOLD MEMBERS. The income of ineligible household members must be deemed after allowing the following disregards:

- (1) the first 18 percent of the excluded family member's gross earned income;
- (2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims as dependents for determining federal personal income tax liability;
- (3) child or spousal support paid to a person who lives outside of the household; and
- (4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S need standard when the excluded person is included in the assistance unit and the MFIP-S need standard when the excluded person is not included in the assistance unit.

Subd. 2. DEEMED INCOME AND ASSETS OF SPONSOR OF NONCITIZENS. All income and assets of a sponsor, or sponsor's spouse, who executed an affidavit of support for a noncitizen must be deemed to be unearned income of the noncitizen as specified in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and subsequently set out in federal rules.

Subd. 3. EARNED INCOME OF WAGE, SALARY, AND CONTRACTUAL EMPLOYEES. The county agency must include gross earned income less any disregards in the initial and monthly income test. Gross earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time.

Subd. 4. SELF-EMPLOYMENT. Self-employed individuals are those who are responsible for their own work schedule and do not have coverage under an employer's liability insurance or workers' compensation. Self-employed individuals generally work for themselves rather than an employer. However, individuals employed in some types of services may be self-employed even if they have an employer or work out of another's business location. For example, real estate sales people, individuals who work for commission sales, manufacturer's representatives, and independent contractors may be self-employed. Self-employed individuals may or may not have FICA deducted from the check issued to them by an employer or another party.

Self-employed individuals may own a business singularly or in partnership. Individuals operating more than one self-employment business may use the loss from one business to offset self-employment income from another business. A loss from a self-employment business may not offset income earned under subdivision 3.

Subd. 5. SELF-EMPLOYMENT EARNINGS. The county agency must determine self-employment income according to the following:

- (a) Subtract allowable business expenses from total gross receipts. Allowable business expenses include:

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- (1) interest on mortgages and loans;
 - (2) employee wages, except for persons who are part of the assistance unit or whose income is deemed to the participant;
 - (3) FICA funds paid on employees' wages, payment of employee workers' compensation, and reemployment insurance;
 - (4) livestock and veterinary or breeding fees;
 - (5) raw material;
 - (6) seed and fertilizer;
 - (7) maintenance and repairs that are not capital expenditures;
 - (8) tax return preparation fees;
 - (9) license fees, professional fees, franchise fees, and professional dues;
 - (10) tools and supplies that are not capital expenditures;
 - (11) fuel and transportation expenses other than fuel costs covered by the flat rate transportation deduction;
 - (12) advertising costs;
 - (13) meals eaten when required to be away from the local work site;
 - (14) property expenses such as rent, insurance, taxes, and utilities;
 - (15) postage;
 - (16) purchase cost of inventory at time of sale;
 - (17) loss from another self-employment business;
 - (18) attorney fees allowed by the Internal Revenue Service; and
 - (19) tuition for classes necessary to maintain or improve job skills or required by law to maintain job status or salary as allowed by the Internal Revenue Service.
- (b) The county agency shall not allow a deduction for the following expenses:
- (1) purchases of capital assets;
 - (2) payments on the principals of loans for capital assets;
 - (3) depreciation;
 - (4) amortization;
 - (5) the wholesale costs of items purchased, processed, or manufactured which are unsold inventory;
 - (6) transportation costs that exceed the maximum standard mileage rate allowed for use of a personal car in the Internal Revenue Code;
 - (7) costs, in any amount, for mileage between an applicant's or participant's home and place of employment;

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(8) salaries and other employment deductions made for members of an assistance unit or persons who live in the household for whom an employer is legally responsible;

(9) monthly expenses in excess of \$71 for each roomer;

(10) monthly expenses in excess of the Thrifty Food Plan amount for one person for each boarder. For purposes of this clause and clause (11), "Thrifty Food Plan" has the meaning given it in Code of Federal Regulations;

(11) monthly expenses in excess of the roomer rate plus the Thrifty Food Plan amount for one person for each roomer-boarder. If there is more than one boarder or roomer-boarder, use the total number of boarders as the unit size to determine the Thrifty Food Plan amount;

(12) an amount greater than actual expenses or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;

(13) expenses not allowed by the Internal Revenue Code;

(14) expenses in excess of 60 percent of gross receipts for in-home child care unless a higher amount can be documented; and

(15) expenses that are reimbursed under the child and adult care food program as authorized under the National School Lunch Act, United States Code, title 42.

Subd. 6. SELF-EMPLOYMENT BUDGET PERIOD. The self-employment budget period begins in the month of application or in the first month of self-employment. Gross receipts must be budgeted in the month received. Expenses must be budgeted against gross receipts in the month the expenses are paid, except for paragraphs (a) to (c).

(a) The purchase cost of inventory items, including materials which are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of the inventory items.

(b) A 12-month rolling average based on clauses (1) to (3) must be used to budget monthly income.

(1) For a business in operation for at least 12 months, the county agency shall use the average monthly self-employment income from the most current income tax report for the 12 months before the month of application. The county agency shall determine a new monthly average by adding in the actual self-employment income and expenses from the previous month and dropping the first month from the averaging period.

(2) For a business in operation for less than 12 months, the county agency shall compute the average for the number of months the business has been in operation to determine a monthly average. When data are available for 12 or more months, average monthly self-employment income is determined under clause (1).

(3) If the business undergoes a major change, the county agency shall compute a new rolling average beginning with the first month of the major change. For the purpose of this clause, major change means a change that affects the nature and scale of the business and is not merely the result of normal business fluctuations.

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(c) For seasonal self-employment, the caregiver may choose whether to use actual income in the month of receipt and expenses in the month incurred or the rolling average method of computation. The choice must be made once per year at the time of application or recertification. For the purpose of this paragraph, seasonal means working six or less months per year.

Subd. 7. FARM INCOME. Farm income is the difference between gross receipts and operating expenses. The county agency must not allow a deduction for expenses listed in subdivision 5, paragraph (b). Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from home-produced food.

Subd. 8. RENTAL INCOME. The county agency must treat income from rental property as earned or unearned income. Income from rental property is unearned income unless the assistance unit spends an average of ten hours per week on maintenance or management of the property. When the owner spends more than ten hours per week on maintenance or repairs, the earnings are considered self-employment earnings. An amount must be deducted for upkeep and repairs, as specified in subdivision 5, paragraph (b), clause (12), real estate taxes, insurance, utilities, and interest on principal payments. When the applicant or participant lives on the rental property, expenses for upkeep, taxes, insurance, utilities, and interest must be divided by the number of rooms to determine expense per room and expenses deducted must be deducted only for the number of rooms rented.

Subd. 9. UNEARNED INCOME. (a) The county agency must apply unearned income, including housing subsidies as in paragraph (b), to the transitional standard. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) Effective July 1, 1998, the county agency shall count \$100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$100.

Subd. 10. TREATMENT OF LUMP SUMS. (a) The county agency must treat lump-sum payments as earned or unearned income. If the lump-sum payment is included in the category of income identified in subdivision 9, it must be treated as unearned income. A lump sum is counted as income in the month received and budgeted either prospectively or retrospectively depending on the budget cycle at the time of receipt. When an individual receives a lump-sum payment, that lump sum must be combined with all other earned and unearned income received in the same budget month, and it must be applied according to paragraphs (a) to (c). A lump sum may not be carried over into subsequent months. Any funds that remain in the third month after the month of receipt are counted in the asset limit.

(b) For a lump sum received by an applicant during the first two months, prospective budgeting is used to determine the payment and the lump sum must be combined with other earned or unearned income received and budgeted in that prospective month.

(c) For a lump sum received by a participant after the first two months of MFIP-S eligibility, the lump sum must be combined with other income received in that budget

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month, and the combined amount must be applied retrospectively against the applicable payment month.

(d) When a lump sum, combined with other income under paragraphs (b) and (c), is less than the transitional standard for the applicable payment month, the assistance payment must be reduced according to the amount of the countable income. When the countable income is greater than the transitional standard or the family wage standard, the assistance payment must be suspended for the payment month.

Sec. 27. [256J.38] CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

Subdivision 1. SCOPE OF OVERPAYMENT. When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment under the conditions of this section.

Subd. 2. NOTICE OF OVERPAYMENT. When a county agency discovers that a participant or former participant has received an overpayment for one or more months, the county agency must notify the participant or former participant of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the participant's or former participant's right to appeal. No limit applies to the period in which the county agency is required to recoup or recover an overpayment according to subdivisions 3 and 4.

Subd. 3. RECOVERING OVERPAYMENTS FROM FORMER PARTICIPANTS. A county agency must initiate efforts to recover overpayments paid to a former participant. Adults and minor caregivers of an assistance unit at the time an overpayment occurs, whether receiving assistance or not, are jointly and individually liable for repayment of the overpayment. The county agency must request repayment from the former participants. When an agreement for repayment is not completed within six months of the date of discovery or when there is a default on an agreement for repayment after six months, the county agency must initiate recovery consistent with chapter 270A, or section 541.05. When a person has been convicted of fraud under section 256.98, recovery must be sought regardless of the amount of overpayment. When an overpayment is less than \$35, and is not the result of a fraud conviction under section 256.98, the county agency must not seek recovery under this subdivision. The county agency must retain information about all overpayments regardless of the amount. When an adult or minor caregiver reapplies for assistance, the overpayment must be recouped under subdivision 4.

Subd. 4. RECOUPING OVERPAYMENTS FROM PARTICIPANTS. A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover ten percent of the transitional standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover three percent of the transitional standard or the amount of the monthly assistance payment, whichever is less.

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Subd. 5. RECOVERING AUTOMATIC TELLER MACHINE ERRORS. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an ATM dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Subd. 6. SCOPE OF UNDERPAYMENTS. A county agency must issue a corrective payment for underpayments made to a participant or to a person who would be a participant if an agency or client error causing the underpayment had not occurred. The county agency must issue the corrective payment according to subdivision 8.

Subd. 7. IDENTIFYING THE UNDERPAYMENT. An underpayment may be identified by a county agency, by a participant, by a former participant, or by a person who would be a participant except for agency or client error.

Subd. 8. ISSUING CORRECTIVE PAYMENTS. A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment of the participant or by issuing a separate payment to a participant or former participant, or by reducing an existing overpayment balance. When an underpayment occurs in a payment month and is not identified until the next payment month or later, the county agency must first subtract the underpayment from any overpayment balance before issuing the corrective payment. The county agency must not apply an underpayment in a current payment month against an overpayment balance. When an underpayment in the current payment month is identified, the corrective payment must be issued within seven calendar days after the underpayment is identified.

Subd. 9. APPEALS. A participant may appeal an underpayment, an overpayment, and a reduction in an assistance payment made to recoup the overpayment under subdivision 4. The participant's appeal of each issue must be timely under section 256.045. When an appeal based on the notice issued under subdivision 2 is not timely, the fact or the amount of that overpayment must not be considered as a part of a later appeal, including an appeal of a reduction in an assistance payment to recoup that overpayment.

Sec. 28. [256J.39] PAYMENT PROVISIONS; VENDOR PAYMENTS.

Subdivision 1. PAYMENT POLICY. The following policies apply to monthly assistance payments and corrective payments:

(1) Grant payments may be issued in the form of warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution.

(2) The commissioner shall mail assistance payment checks to the address where a caregiver lives unless the county agency approves an alternate arrangement.

(3) The commissioner shall mail monthly assistance payment checks within time to allow postal service delivery to occur no later than the first day of each month. Monthly assistance payment checks must be dated the first day of the month. The commissioner shall issue electronic benefits transfer payments so that caregivers have access to the payments no later than the first of the month.

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(4) The commissioner shall issue replacement checks promptly, but no later than seven calendar days after the provisions of sections 16A.46; 256.01, subdivision 11; and 471.415 have been met.

Subd. 2. PROTECTIVE AND VENDOR PAYMENTS. Alternatives to paying assistance directly to a participant may be used when:

(1) a county agency determines that a vendor payment is the most effective way to resolve an emergency situation pertaining to basic needs;

(2) a caregiver makes a written request to the county agency asking that part or all of the assistance payment be issued by protective or vendor payments for shelter and utility service only. The caregiver may withdraw this request in writing at any time;

(3) a caregiver has exhibited a continuing pattern of mismanaging funds as determined by the county agency;

(4) the vendor payment is part of a sanction under section 256J.46, subdivision 2; or

(5) the vendor payment is required under section 256J.24 or 256J.43.

The director of a county agency must approve a proposal for protective or vendor payment for money mismanagement. During the time a protective or vendor payment is being made, the county agency must provide services designed to alleviate the causes of the mismanagement.

The continuing need for and method of payment must be documented and reviewed every 12 months. The director of a county agency must approve the continuation of protective or vendor payments.

When it appears that the need for protective or vendor payments will continue or is likely to continue beyond two years because the county agency's efforts have not resulted in sufficiently improved use of assistance on behalf of the minor child, judicial appointment of a legal guardian or other legal representative must be sought by the county agency.

Subd. 3. CHOOSING PAYEES FOR PROTECTIVE OR VENDOR PAYMENTS. A county agency shall consult with a caregiver regarding the selection of the form of payment, the selection of a protective payee, and the distribution of the assistance payment to meet the various costs incurred by the assistance unit. When choosing a protective payee, the county agency shall notify the caregiver of a consultation date. If the caregiver fails to respond to the county agency's request for consultation by the effective date on the notice, the county agency must choose a protective payee for that payment month and subsequent payment months until the caregiver responds to the agency's request for consultation. The county agency must notify the caregiver of the right to appeal the determination that a protective or vendor payment should be made or continued and to appeal the selection of the payee. If a county agency is not able to find another protective payee, a county agency staff member may serve as a protective payee. The following persons may not serve as protective payees: a member of the county board of commissioners; the county agency staff member determining financial eligibility for the family; special investigative or resource staff; the staff member handling accounting or fiscal processes related to the participant; or a landlord, grocer, or other vendor dealing directly with the participant.

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Subd. 4. **DISCONTINUING PROTECTIVE OR VENDOR PAYMENTS.** A county agency shall discontinue protective or vendor payments in two years or in the month following the county agency's failure to grant six-month approval to a money management plan, whichever occurs first. At least once every 12 months, a county agency shall review the performance of a protective payee acting under subdivision 2, clause (3), to determine whether a new payee should be selected. When a participant complains about the performance of a protective payee, a review shall occur within 30 calendar days.

Sec. 29. **[256J.395] VENDOR PAYMENT OF RENT AND UTILITIES.**

(a) Effective July 1, 1997, when a county is required to provide assistance to a recipient in vendor form for rent and utilities under chapter 256, 256D, 256J, or 256K, the cost of utilities for a given family may be assumed to be:

(1) the average of the actual monthly cost of utilities for that family for the prior 12 months at the family's current residence, if applicable;

(2) the monthly plan amount, if any, set by the local utilities for that family at the family's current residence; or

(3) the estimated monthly utility costs for the dwelling in which the family currently resides.

(b) For purposes of this section, "utility" means any of the following: municipal water and sewer service; electric, gas, or heating fuel service; or wood, if that is the heating source.

(c) In any instance where a vendor payment for rent is directed to a landlord not legally entitled to the payment, the county social services agency shall immediately institute proceedings to collect the amount of the vendored rent payment, which shall be considered a debt under section 270A.03, subdivision 5.

Sec. 30. **[256J.396] SUPPORT FROM PARENTS OF MINOR CAREGIVERS LIVING APART.**

Subdivision 1. GENERAL PROVISIONS. A minor caregiver and the minor's dependent child living outside of the home of the adult parent must meet the criteria in section 256J.14, to be eligible for assistance in the MFIP-S program. A parent who lives outside the home of a minor child who is an unemancipated minor caregiver of an assistance unit is financially responsible for that minor caregiver unless the parent is a recipient of public assistance, SSL, MSA, medical assistance, general assistance, or general assistance medical care, and a court order does not otherwise provide a support obligation.

Subd. 2. AMOUNT OF SUPPORT PAYMENT. The amount of support to be paid by a parent, except a parent specified in subdivision 4, must be determined according to paragraphs (a) to (f).

(a) A minor caregiver must provide information required by the county agency to identify the whereabouts of the minor caregiver's absent parent or parents.

(b) A county agency must notify an absent parent of the parent's legal responsibility to support a minor caregiver and shall request that the absent parent provide the following:

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- (1) the amount of the parent's earned and unearned income for the previous tax year;
- (2) the amount of the parent's earned and unearned income for the current month;
- (3) the number and names of dependents who are claimed or could be claimed by the parent on federal income tax forms;
- (4) the amount of annual medical bills paid by the parent;
- (5) the amount of annual housing costs paid by the parent;
- (6) the costs for utilities and repairs to the home which are paid by the parent; and
- (7) the amount of annual educational costs for family members paid by the parent.

(c) When a parent of a minor caregiver does not provide the information requested under paragraph (b), the county agency must refer the matter to the county attorney. Assistance to the minor caregiver must not be denied, delayed, reduced, or ended because of the lack of cooperation of the minor caregiver's parent.

(d) When the information requested under paragraph (b) is received by a county agency, the county agency must compare the parent's income against the scale set forth below using the conditions and procedures specified in paragraph (e).

<u>Size of Family</u>	<u>Federal Poverty Guideline</u>
<u>1</u>	<u>\$ 9,288</u>
<u>2</u>	<u>12,432</u>
<u>3</u>	<u>15,576</u>
<u>4</u>	<u>18,720</u>
<u>5</u>	<u>21,864</u>

For each additional family member add \$3,144.

(e) The parent's income is the parent's gross earned income plus unearned income, determined by the methods in section 256J.21. To determine family size, each person claimed or who could be claimed by a parent as a dependent on federal income tax forms, exclusive of the minor caregiver, must be included. A deduction from income must be allowed for the amount that medical, educational, and housing costs together exceed 30 percent of the parent's income. When the amount of income, after the allowable deduction, exceeds the annual income level in paragraph (d), a parent is liable to pay one-third of the excess for the annual support of the minor caregiver. These payments must be paid monthly to the minor caregiver or to the county agency on behalf of the minor caregiver.

(f) A county agency must notify the parents of the minor caregiver that they are liable for the amount of support determined by the county agency as specified in paragraph (e). When the support payment is received by the minor caregiver, it must be treated as unearned income of the assistance unit. When the support payment is not received, or a lesser amount is received in any payment month, the county agency must refer the matter to the county attorney.

Subd. 3. REVIEWS. A county agency must review financial responsibility every 12 months until minor caregivers reach the age of 18 or are otherwise emancipated. When a parent reports a change in circumstances, the county agency must review the required amount of payment within ten calendar days.

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Subd. 4. PARENTS UNDER COURT ORDER FOR SUPPORT. A parent who is required under an existing court order issued under some other authority in state or federal law to pay child support for a minor caregiver is subject to the conditions of that order in lieu of the requirements and contribution levels in subdivision 2.

Sec. 31. [256J.40] FAIR HEARINGS.

Caregivers receiving a notice of intent to sanction or a notice of adverse action that includes a sanction, reduction in benefits, suspension of benefits, denial of benefits, or termination of benefits may request a fair hearing. A request for a fair hearing must be submitted in writing to the county agency or to the commissioner and must be mailed within 30 days after a participant or former participant receives written notice of the agency's action or within 90 days when a participant or former participant shows good cause for not submitting the request within 30 days. A former participant who receives a notice of adverse action due to an overpayment may appeal the adverse action according to the requirements in this section. Issues that may be appealed are:

- (1) the amount of the assistance payment;
- (2) a suspension, reduction, denial, or termination of assistance;
- (3) the basis for an overpayment, the calculated amount of an overpayment, and the level of recoupment;
- (4) the eligibility for an assistance payment; and
- (5) the use of protective or vendor payments under section 256J.39, subdivision 2, clauses (1) to (3).

A county agency must not reduce, suspend, or terminate payment when an aggrieved participant requests a fair hearing prior to the effective date of the adverse action or within ten days of the mailing of the notice of adverse action, whichever is later, unless the participant requests in writing not to receive continued assistance pending a hearing decision. Assistance issued pending a fair hearing is subject to recovery under section 256J.38 when as a result of the fair hearing decision the participant is determined ineligible for assistance or the amount of the assistance received. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the participant change and are not related to the issue on appeal. The commissioner's order is binding on a county agency. No additional notice is required to enforce the commissioner's order.

A county agency shall reimburse appellants for reasonable and necessary expenses of attendance at the hearing, such as child care and transportation costs and for the transportation expenses of the appellant's witnesses and representatives to and from the hearing. Reasonable and necessary expenses do not include legal fees. Fair hearings must be conducted at a reasonable time and date by an impartial referee employed by the department. The hearing may be conducted by telephone or at a site that is readily accessible to persons with disabilities.

The appellant may introduce new or additional evidence relevant to the issues on appeal. Recommendations of the appeals referee and decisions of the commissioner must be based on evidence in the hearing record and are not limited to a review of the county agency action.

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Sec. 32. [256J.42] 60-MONTH TIME LIMIT.

Subdivision 1. TIME LIMIT. (a) An assistance unit in which any adult caregiver has received 60 months of cash assistance funded in whole or in part by the TANF block grant, MFIP-S, AFDC, or family general assistance, funded in whole or in part by state appropriations, is ineligible to receive MFIP-S. Any cash assistance funded with TANF dollars, or MFIP-S assistance funded in whole or in part by state appropriations, that was received by the unit on or after the date TANF was implemented, including any assistance received in states of prior residence, counts toward the 60-month limitation. The 60-month limit applies to a minor who is the head of a household or who is married to the head of a household. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) Months before July 1998 in which individuals receive assistance as part of an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family under sections 256.031 to 256.0361 or sections 256.047 to 256.048 are not included in the 60-month time limit.

Subd. 2. ASSISTANCE FROM ANOTHER STATE. An individual whose needs have been otherwise provided for in another state, in whole or in part by the TANF block grant during a month, is ineligible to receive MFIP-S for the month.

Subd. 3. ADULTS LIVING ON AN INDIAN RESERVATION. In determining the number of months for which an adult has received assistance under MFIP-S, the county agency must disregard any month during which the adult lived on an Indian reservation if, during the month:

(1) at least 1,000 individuals were living on the reservation; and

(2) at least 50 percent of the adults living on the reservation were unemployed.

Subd. 4. VICTIMS OF DOMESTIC VIOLENCE. Any cash assistance received by an assistance unit in a month when a caregiver is complying with a safety plan under the MFIP-S employment and training component does not count toward the 60-month limitation on assistance.

Subd. 5. EXEMPTION FOR CERTAIN FAMILIES. (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the parental caregiver is in the category in section 256J.56, clause (1). The exemption applies for the period of time the caregiver belongs to one of the categories specified in this subdivision.

(b) Any cash assistance received by a caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

Sec. 33. [256J.43] INTERSTATE PAYMENT STANDARDS.

(a) Effective July 1, 1997, the amount of assistance paid to an eligible family in which all members have resided in this state for fewer than 12 calendar months immediately preceding the date of application shall be the lesser of either the payment standard that would have been received by the family from the state of immediate prior residence, or the amount calculated in accordance with AFDC or MFIP-S standards. The lesser payment must continue until the family meets the 12-month requirement. Payment must be

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calculated by applying this state's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or in this state, whichever is lower. Payment shall be made in vendor form for rent and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months a family resides in this state, the number of months that a family is eligible to receive AFDC or MFIP-S benefits is limited to the number of months the family would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the family received similar benefits while residing in the state of previous residence.

(d) When a family moves to this state from another state where the family has exhausted that state's time limit for receiving benefits under that state's TANF program, the family will not be eligible to receive any AFDC or MFIP-S benefits in this state for 12 months from the date the family moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Sec. 34. [256J.44] INITIAL SCREENING OF MFIP-S APPLICANT.

Subdivision 1. SCREENING. The county agency, or at county option, the county's employment and training service provider as defined in section 256J.49, must screen each applicant to determine immediate needs and to determine if the applicant may be eligible for:

(1) another program that is not partially funded through the federal temporary assistance to needy families block grant under title I of Public Law Number 104-193, including the expedited issuance of food stamps under section 256J.28, subdivision 1. If the applicant may be eligible for another program, a county caseworker must provide the appropriate referral to the program;

(2) the diversionary assistance program under section 256J.47; or

(3) the emergency assistance program under section 256J.48.

The applicant is required to attend the screening. If the applicant is not diverted from applying for MFIP-S under clauses (1) to (3), and if the applicant meets the MFIP-S eli-

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gibility requirements, then an orientation under section 256J.45 and an initial assessment under section 256J.52 must be completed; or, in the case of caregivers who are under the age of 20, a plan under section 256J.54 must be completed.

Subd. 2. SUPPORT SERVICES TO ATTEND SCREENING AND ORIENTATION. Upon a caregiver's request, the county agency must arrange for transportation and child care or reimburse caregivers for transportation and child care expenses necessary to enable caregivers to attend the initial screening under this section and orientation under section 256J.51 if scheduled on a day other than when the caregiver makes application for assistance.

Sec. 35. [256J.45] ORIENTATION.

Subdivision 1. COUNTY AGENCY TO PROVIDE ORIENTATION. A county agency must provide each MFIP-S caregiver with a face-to-face orientation. The caregiver must attend the orientation. The county agency must inform the caregiver that failure to attend the orientation is considered a first occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46.

Subd. 2. GENERAL INFORMATION. The MFIP-S orientation must consist of a presentation that informs caregivers of:

- (1) the necessity to obtain immediate employment;
- (2) the work incentives under MFIP-S;
- (3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP-S;
- (4) the consequences for failing to comply with the employment plan and other program requirements;
- (5) the rights, responsibilities, and obligations of participants;
- (6) the types and locations of child care services available through the county agency;
- (7) the availability and the benefits of the early childhood health and developmental screening under sections 123.701 to 123.74;
- (8) the caregiver's eligibility for transition year child care assistance under section 119B.05;
- (9) the caregiver's eligibility for extended medical assistance when the caregiver loses eligibility for MFIP-S due to increased earnings or increased child or spousal support; and
- (10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates.

Sec. 36. [256J.46] SANCTIONS.

Subdivision 1. SANCTIONS FOR PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS. (a) A participant who fails without good cause to comply with the requirements of this chapter, and who is not subject to sanction

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under subdivision 2, shall be subject to a sanction as provided in this subdivision. A sanction under this subdivision becomes effective ten days after the required notice is given. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of non-compliance to be considered a first occurrence.

(b) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance, the participant's grant shall be reduced by ten percent of the applicable transitional standard. The reduction in the grant amount must be in effect for a minimum of one month, and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second or subsequent occurrence of noncompliance, the participant's rent shall be vendor paid up to the amount of the MFIP-S grant for which the participant's assistance unit is eligible. At county option, the participant's utilities may also be vendor paid up to the amount of the MFIP-S grant remaining after vendor payment of the participant's rent. The vendor payment of rent and, if in effect, utilities, must be in effect for six months from the date that a sanction is imposed under this clause. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the applicable transitional standard before the residual is paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month, and shall be removed in the month following the month that the participant returns to compliance. The vendor payment of rent and, if applicable, utilities, shall be removed six months after the month in which the participant returns to compliance.

(c) No later than during the second month that a sanction under paragraph (b), clause (2) is in effect, the participant's case file must be reviewed to determine if:

(i) the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause 16;

(ii) the participant qualifies for a good cause exception under 256J.57; or

(iii) the participant qualifies for an exemption under 256J.56.

If the lack of an identified activity can explain the noncompliance, the county must work with the participant to provide the identified activity, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities, or to qualify for an exemption or good cause exception.

If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible. If the participant's grant is restored under this paragraph, the vendor payment of rent and if applicable, utilities, shall be removed six months after the month in which the sanction was imposed and the county must consider a subsequent occurrence of non-compliance to be a first occurrence.

Subd. 1a. TRANSITIONAL RULE; SANCTIONS FOR AFDC, FAMILY GA, STRIDE, ACCESS, MFIP, OR MFIP-R RECIPIENTS. For purposes of determining

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a sanction under subdivision 1, for the first occurrence of noncompliance with a provision of this chapter or with section 256.741, if enacted, a recipient of assistance under AFDC, family general assistance, STRIDE, ACCESS, MFIP, or MFIP-R who was under a sanction in the month immediately preceding the receipt of assistance under MFIP-S shall be subject to sanction as provided in subdivision 1, paragraph (b), clause (1). The reduction in grant amount must be in effect for a minimum of one month. For a second or subsequent occurrence of noncompliance, the sanction shall be as provided in subdivision 1, paragraph (b), clause (2).

Subd. 2. SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS. The grant of an MFIP-S caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, if enacted, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable transitional standard. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective ten days after the required notice is given. The sanction must be in effect for a minimum of one month, and shall be removed only when the caregiver cooperates with the support requirements.

Subd. 2a. DUAL SANCTIONS. (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence. Any vendor payment of rent or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

(b) If the participant was subject to sanction for:

(i) noncompliance under subdivision 1 before being subject to sanction for noncooperation under subdivision 2; or

(ii) noncooperation under subdivision 2 before being subject to sanction for noncompliance under subdivision 1;

the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2), and the requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by 25 percent of the applicable transitional standard, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2).

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The requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction under subdivision 1; or

(ii) has the sanction under subdivision 1, paragraph (b), removed upon completion of the review under subdivision 1, paragraph (c).

A participant remains subject to sanction under subdivision 1, paragraph (b), if the participant cooperates and is no longer subject to sanction under subdivision 2.

Sec. 37. [256J.47] DIVERSIONARY ASSISTANCE PROGRAM.

Subdivision 1. ELIGIBILITY. A family is eligible to receive diversionary assistance once every 36 months if:

(1) a family member has resided in this state for at least 30 days;

(2) the caregiver provides verification that the caregiver has either experienced an unexpected occurrence that makes it impossible to retain or obtain employment or the caregiver has a temporary loss of income, which is not due to refusing to accept or terminating suitable employment as defined in section 256J.49, without good cause under section 256J.57, resulting in an emergency;

(3) the caregiver is at risk of MFIP-S eligibility if diversionary assistance is not provided and household income is below 140 percent of the federal poverty guidelines; and

(4) the diversionary assistance will resolve the emergency and divert the family from applying for MFIP-S.

For purposes of this section, diversionary assistance means a one-time lump-sum payment to an individual or third-party vendor to prevent long-term receipt of public assistance.

Subd. 2. COUNTY AGENCY DUTIES. County agencies shall:

(1) thoroughly explain to the caregiver the consequences of receiving diversionary assistance, specifically the resulting period of ineligibility under subdivision 4 for other assistance programs; and

(2) determine eligibility for diversionary assistance within five working days of the receipt of the verification that substantiates eligibility or ineligibility. Verification means client declaration and the best determination of the county agency.

Subd. 3. MAXIMUM AMOUNT OF ASSISTANCE. The maximum amount of diversionary assistance that may be provided to a family is equal to the amount of the MFIP-S transitional standard for the same family size and composition for four months. The assistance provided under this program must be based on the immediate needs of the family. Counties must strive to provide the most cost-effective solution to the one-time emergency. Diversionary assistance is not cost effective if the family's anticipated income added to the diversion payment will not be sufficient to cover the family's immediate needs for the period of ineligibility under subdivision 4, beginning with the month of application, or another emergency can reasonably be anticipated within the period of ineligibility.

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Subd. 4. INELIGIBILITY FOR MFIP-S; EMERGENCY ASSISTANCE; AND EMERGENCY GENERAL ASSISTANCE. Upon receipt of diversionary assistance, the family is ineligible for MFIP-S, emergency assistance, and emergency general assistance for a period of time. To determine the period of ineligibility, the county shall use the following formula: regardless of household changes, the county agency must calculate the number of days of ineligibility by dividing the diversionary assistance issued by the transitional standard a family of the same size and composition would have received under MFIP-S, multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued.

Subd. 5. DIVERSIONARY ASSISTANCE GRANT; FUNDING. The commissioner shall distribute diversionary assistance grants to counties. The commissioner may use federal block grant funding or state funding for the grants.

Sec. 38. [256J.48] EMERGENCY ASSISTANCE (EA).

Subdivision 1. EMERGENCY FINANCIAL ASSISTANCE. County human service agencies shall grant emergency financial assistance to any needy pregnant woman or needy family with a child under the age of 21 who is or was within six months prior to application living with an eligible caregiver relative specified in section 256J.08.

Except for ongoing special diets, emergency assistance is available to a family during one 30-day period in a consecutive 12-month period. A county shall issue assistance for needs that accrue before that 30-day period only when it is necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. When emergency needs continue, a county may issue assistance for up to 30 days beyond the initial 30-day period of eligibility, but only when assistance is authorized during the initial period.

Subd. 2. ELIGIBILITY. Notwithstanding other eligibility provisions of this chapter, any family without resources immediately available to meet emergency needs identified in subdivision 3 shall be eligible for an emergency grant under the following conditions:

- (1) a family member has resided in this state for at least 30 days;
- (2) the family is without resources immediately available to meet emergency needs;
- (3) assistance is necessary to avoid destitution or provide emergency shelter arrangements; and
- (4) the family's destitution or need for shelter or utilities did not arise because the child or relative caregiver refused without good cause under section 256J.57 to accept employment or training for employment in this state or another state.

Subd. 3. EMERGENCY NEEDS. Emergency needs are limited to the following:

(a) RENT. A county agency may deny assistance to prevent eviction from rented or leased shelter of an otherwise eligible applicant when the county agency determines that an applicant's anticipated income will not cover continued payment for shelter, subject to conditions in clauses (1) to (3):

(1) a county agency must not deny assistance when an applicant can document that the applicant is unable to locate habitable shelter, unless the county agency can document that one or more habitable shelters are available in the community that will result in at

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least a 20 percent reduction in monthly expense for shelter and that this shelter will be cost-effective for the applicant;

(2) when no alternative shelter can be identified by either the applicant or the county agency, the county agency shall not deny assistance because anticipated income will not cover rental obligation; and

(3) when cost-effective alternative shelter is identified, the county agency shall issue assistance for moving expenses as provided in paragraph (d).

(b) DEFINITIONS. For purposes of paragraph (a), the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(c) MORTGAGE AND CONTRACT FOR DEED ARREARAGES. A county agency shall issue assistance for mortgage or contract for deed arrearages on behalf of an otherwise eligible applicant according to clauses (1) to (4):

(1) assistance for arrearages must be issued only when a home is owned, occupied, and maintained by the applicant;

(2) assistance for arrearages must be issued only when no subsequent foreclosure action is expected within the 12 months following the issuance;

(3) assistance for arrearages must be issued only when an applicant has been refused refinancing through a bank or other lending institution and the amount payable, when combined with any payments made by the applicant, will be accepted by the creditor as full payment of the arrearage;

(4) costs paid by a family which are counted toward the payment requirements in this clause are: principle and interest payments on mortgages or contracts for deed, balloon payments, homeowner's insurance payments, manufactured home lot rental payments, and tax or special assessment payments related to the homestead. Costs which are not counted include closing costs related to the sale or purchase of real property.

To be eligible for assistance for costs specified in clause (4) which are outstanding at the time of foreclosure, an applicant must have paid at least 40 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application.

When an applicant is eligible under clause (4), a county agency shall issue assistance up to a maximum of four times the MFIP-S transitional standard for a comparable assistance unit.

(d) DAMAGE OR UTILITY DEPOSITS. A county agency shall issue assistance for damage or utility deposits when necessary to alleviate the emergency. The county may require that assistance paid in the form of a damage deposit or a utility deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord under a rental agreement, or to restore the premises to the

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condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or be paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

(e) MOVING EXPENSES. A county agency shall issue assistance for expenses incurred when a family must move to a different shelter according to clauses (1) to (4):

(1) moving expenses include the cost to transport personal property belonging to a family, the cost for utility connection, and the cost for securing different shelter;

(2) moving expenses must be paid only when the county agency determines that a move is cost-effective;

(3) moving expenses must be paid at the request of an applicant, but only when destitution or threatened destitution exists; and

(4) moving expenses must be paid when a county agency denies assistance to prevent an eviction because the county agency has determined that an applicant's anticipated income will not cover continued shelter obligation in paragraph (a).

(f) HOME REPAIRS. A county agency shall pay for repairs to the roof, foundation, wiring, heating system, chimney, and water and sewer system of a home that is owned and lived in by an applicant.

The applicant shall document, and the county agency shall verify the need for and method of repair.

The payment must be cost-effective in relation to the overall condition of the home and in relation to the cost and availability of alternative housing.

(g) UTILITY COSTS. Assistance for utility costs must be made when an otherwise eligible family has had a termination or is threatened with a termination of municipal water and sewer service, electric, gas or heating fuel service, or lacks wood when that is the heating source, subject to the conditions in clauses (1) and (2):

(1) a county agency must not issue assistance unless the county agency receives confirmation from the utility provider that assistance combined with payment by the applicant will continue or restore the utility; and

(2) a county agency shall not issue assistance for utility costs unless a family paid at least eight percent of the family's gross income toward utility costs due during the preceding 12 months.

Clauses (1) and (2) must not be construed to prevent the issuance of assistance when a county agency must take immediate and temporary action necessary to protect the life or health of a child.

(h) SPECIAL DIETS. A county shall pay for special diets or dietary items. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the Thrifty Food Plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the Thrifty Food Plan that are covered are as follows:

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- (1) high protein diet, at least 80 grams daily, 25 percent of Thrifty Food Plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of Thrifty Food Plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of Thrifty Food Plan;
- (4) low cholesterol diet, 25 percent of Thrifty Food Plan;
- (5) high residue diet, 20 percent of Thrifty Food Plan;
- (6) pregnancy and lactation diet, 35 percent of Thrifty Food Plan;
- (7) gluten-free diet, 25 percent of Thrifty Food Plan;
- (8) lactose-free diet, 25 percent of Thrifty Food Plan;
- (9) antidumping diet, 15 percent of Thrifty Food Plan;
- (10) hypoglycemic diet, 15 percent of Thrifty Food Plan; or
- (11) ketogenic diet, 25 percent of Thrifty Food Plan.

Subd. 4. **VENDOR PAYMENTS FOR SHELTER OR UTILITY COSTS.** An ongoing MFIP-S grant may, at county board option, be in the form of vendor payments if application for emergency assistance is for shelter or utility costs.

Sec. 39. [256J.49] EMPLOYMENT AND TRAINING SERVICES; DEFINITIONS.

Subdivision 1. **SCOPE.** The terms used in sections 256J.50 to 256J.72 have the meanings given them in this section.

Subd. 2. **DOMESTIC VIOLENCE.** "Domestic violence" means:

- (1) physical acts that result, or threaten to result in, physical injury to an individual;
- (2) sexual abuse;
- (3) sexual activity involving a minor child;
- (4) being forced as the caregiver of a minor child to engage in nonconsensual sexual acts or activities;
- (5) threats of, or attempts at, physical or sexual abuse;
- (6) mental abuse; or
- (7) neglect or deprivation of medical care.

Subd. 3. **EMPLOYMENT AND TRAINING SERVICES.** "Employment and training services" means programs, activities and services that are designed to assist participants in obtaining and retaining employment.

Subd. 4. **EMPLOYMENT AND TRAINING SERVICE PROVIDER.** "Employment and training service provider" means:

- (1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and

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268.871, subdivision 1, or is approved under section 256J.51 and is included in the county plan submitted under section 256J.50, subdivision 7;

(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and training services and which is included in the county's plan submitted under section 256J.50, subdivision 7; or

(3) a county agency, if the county has opted to provide employment and training services and the county has indicated that fact in the plan submitted under section 256J.50, subdivision 7.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Subd. 5. EMPLOYMENT PLAN. "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step.

Subd. 6. FEDERAL PARTICIPATION STANDARDS. "Federal participation standards" means the work participation standards as specified in title I of Public Law No. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subd. 7. INTENSIVE ENGLISH AS A SECOND LANGUAGE PROGRAM. "Intensive English as a second language program" means an English as a second language program that offers at least 20 hours of class per week.

Subd. 8. JOB COUNSELOR. "Job counselor" means a staff person employed by or under contract with the employment and training services provider who delivers services as specified in sections 256J.50 to 256J.55.

Subd. 9. PARTICIPANT. "Participant" means a recipient of MFIP-S assistance who participates or is required to participate in employment and training services.

Subd. 10. PROVIDER. "Provider" means an employment and training service provider.

Subd. 11. SAFETY PLAN. "Safety plan" means a plan developed by a victim of domestic violence or a person continuing to be at risk of domestic violence with the assistance of a public agency or a private nonprofit agency, including agencies that receive designation by the department of corrections to provide emergency shelter services or support services under section 611A.32. A safety plan shall not include a provision that automatically requires a domestic violence victim to seek an order of protection, or to attend counseling, as part of the safety plan.

Subd. 12. SUITABLE EMPLOYMENT. "Suitable employment" means employment that:

(1) is within the participant's physical and mental abilities;

(2) pays hourly gross wages of not less than the applicable state or federal minimum wage;

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(3) meets health and safety standards set by federal, state and county agencies; and

(4) complies with federal, state, and local antidiscrimination laws.

Subd. 13. **WORK ACTIVITY.** “Work activity” means any activity in a participant’s approved employment plan that is tied to the participant’s employment goal. For purposes of the MFIP-S program, any activity that is included in a participant’s approved employment plan meets the definition of work activity as counted under the federal participation standards. Work activity includes, but is not limited to:

(1) unsubsidized employment;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69;

(3) work experience, including CWEP as specified in section 256J.67, and including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;

(4) on-the-job training as specified in section 256J.66;

(5) job search, either supervised or unsupervised;

(6) job readiness assistance;

(7) job clubs, including job search workshops;

(8) job placement;

(9) job development;

(10) job-related counseling;

(11) job coaching;

(12) job retention services;

(13) job-specific training or education ;

(14) job skills training directly related to employment;

(15) the self-employment investment demonstration (SEID), as specified in section 256J.65;

(16) preemployment activities, based on availability and resources, such as volunteer work, literacy programs and related activities, citizenship and English as a second language classes, or participation in dislocated worker services, chemical dependency treatment, mental health services, peer group networks, displaced homemaker programs, strength-based resiliency training, parenting education, or other programs designed to help families reach their employment goals and enhance their ability to care for their children;

(17) community service programs;

(18) vocational educational training or educational programs that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(19) apprenticeships;

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(20) satisfactory attendance in general educational development diploma classes or an adult diploma program;

(21) satisfactory attendance at secondary school, if the participant has not received a high school diploma;

(22) adult basic education classes;

(23) internships;

(24) bilingual employment and training services;

(25) providing child care services to a participant who is working in a community service program; and

(26) activities included in a safety plan that is developed under section 256J.52, subdivision 6.

Sec. 40. [256J.50] COUNTY DUTIES.

Subdivision 1. EMPLOYMENT AND TRAINING SERVICES COMPONENT OF MFIP-S. (a) By January 1, 1998, each county must develop and implement an employment and training services component of MFIP-S which is designed to put participants on the most direct path to unsubsidized employment. Participation in these services is mandatory for all MFIP-S caregivers, unless the caregiver is exempt under section 256J.56.

(b) A county may provide employment and training services to MFIP-S caregivers who are exempt from the employment and training services component but volunteer for the services.

Subd. 2. PILOT PROGRAMS. In counties selected for the work first or work focused pilot programs, first-time applicants for assistance must meet the requirements of those programs in place of the requirements of the MFIP-S program. A county may, at its option, discontinue a work first or work focused pilot program.

Subd. 3. TRANSITIONAL RULE; MFIP OR MFIP-R PARTICIPANT. A caregiver who was enrolled in MFIP or MFIP-R on the date the county implements the employment and training services component of MFIP-S and was making satisfactory progress toward the objectives specified in the caregiver's employment plan, may continue with the existing employment plan for up to two years with the approval of a job counselor. The job counselor may require changes to the plan in order to be consistent with this two-year time limit.

Subd. 3a. TRANSITIONAL RULE; STRIDE, ACCESS. (a) A county agency that is not a participant in the MFIP or MFIP-R field trials under sections 256.031 to 256.0361 shall not enroll a recipient into project STRIDE or ACCESS after the date that MFIP-S is implemented in the county.

(b) A caregiver who:

(i) was enrolled in project STRIDE or ACCESS continuously since March 1, 1997;

(ii) is not a part of an MFIP or MFIP-R comparison group; and

(iii) who is making satisfactory progress toward the objectives specified in the caregiver's employment plan, may, with the approval of the job counselor, continue with the

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existing employment plan for up to two years after the caregiver is enrolled in MFIP-S. For purposes of the federal participation standards, the activities in the caregiver's employment plan are work activities, as that term is defined in section 256J.49, subdivision 13.

(c) Notwithstanding contrary provisions of section 256.736, the employability plan of a caregiver who is enrolled in project STRIDE or ACCESS on or after July 1, 1997, must meet the requirements of section 256J.53.

Subd. 4. SERVICE PROVIDING AGENCIES. Unless the provisions of subdivision 8 apply, a county must select at least two employment and training service providers. A county may opt to provide services on its own as one of these providers.

Subd. 5. PARTICIPATION REQUIREMENTS FOR SINGLE-PARENT AND TWO-PARENT CASES. A county must establish a uniform schedule for requiring participation by single parents. Mandatory participation must be required within six months of eligibility for cash assistance. For two-parent cases, participation is required concurrent with the receipt of MFIP-S cash assistance.

Subd. 6. EXPLANATORY MATERIALS REQUIRED. The county must:

(1) explain to applicants and recipients and provide explanatory materials regarding the relationship between the 60-month time limit on assistance funded with TANF dollars and the receipt of various benefits, including cash assistance, food stamps, medical assistance, and child care assistance; and

(2) provide assistance to applicants and recipients to enable them to minimize the use of their 60 allowable months of TANF-funded assistance.

Subd. 7. LOCAL SERVICE UNIT PLAN. Each local or county service unit shall prepare and submit a plan as specified in section 268.88.

Subd. 8. COUNTY DUTY TO ENSURE EMPLOYMENT AND TRAINING CHOICES FOR PARTICIPANTS. Each county, or group of counties working cooperatively, shall make available to participants the choice of at least two employment and training service providers as defined under section 256J.49, subdivision 4, except in counties utilizing workforce centers that use multiple employment and training services, offer multiple services options under a collaborative effort and can document that participants have choice among employment and training services designed to meet specialized needs.

Subd. 9. EXCEPTION; FINANCIAL HARDSHIP. Notwithstanding subdivision 8, a county that explains in the plan required under subdivision 7 that the provision of alternative employment and training service providers would result in financial hardship for the county is not required to make available more than one employment and training provider.

Sec. 41. [256J.51] EMPLOYMENT AND TRAINING SERVICE PROVIDER; ALTERNATE APPROVAL PROCESS.

Subdivision 1. PROVIDER APPLICATION. An employment and training service provider that is not included in a county's plan under section 256J.50, subdivision 7, because the county has demonstrated financial hardship under subdivision 9 of that sec-

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tion, may appeal its exclusion to the commissioner of economic security under this section.

Subd. 2. APPEAL; ALTERNATE APPROVAL. (a) An employment and training service provider that is not included by a county agency in the plan under section 256J.50, subdivision 7, and that meets the criteria in paragraph (b), may appeal its exclusion to the commissioner of economic security, and may request alternative approval by the commissioner of economic security to provide services in the county.

(b) An employment and training services provider that is requesting alternative approval must demonstrate to the commissioner that the provider meets the standards specified in section 268.871, subdivision 1, paragraph (b), except that the provider's past experience may be in services and programs similar to those specified in section 268.871, subdivision 1, paragraph (b).

Subd. 3. COMMISSIONER'S REVIEW. (a) The commissioner must act on a request for alternative approval under this section within 30 days of the receipt of the request. If after reviewing the provider's request, and the county's plan submitted under section 256J.50, subdivision 7, the commissioner determines that the provider meets the criteria under subdivision 2, paragraph (b), and that approval of the provider would not cause financial hardship to the county, the county must submit a revised plan under subdivision 4 that includes the approved provider.

(b) If the commissioner determines that the approval of the provider would cause financial hardship to the county, the commissioner must notify the provider and the county of this determination. The alternate approval process under this section shall be closed to other requests for alternate approval to provide employment and training services in the county for up to 12 months from the date that the commissioner makes a determination under this paragraph.

Subd. 4. REVISED PLAN REQUIRED. The commissioner of economic security must notify the county agency when the commissioner grants an alternative approval to an employment and training service provider under subdivision 2. Upon receipt of the notice, the county agency must submit a revised plan under section 256J.50, subdivision 7, that includes the approved provider. The county has 90 days from the receipt of the commissioner's notice to submit the revised plan.

Subd. 5. REVIEW NOT REQUIRED. Notwithstanding subdivision 3, once a county meets the requirements of section 256J.50, subdivision 8, the commissioner may, but is not required to, act on a request by an employment and training services provider for alternative approval in that county.

Sec. 42. [256J.515] OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that stresses the necessity and opportunity of immediate employment, outlines the job search resources offered, explains the requirements to comply with an employment plan and the consequences for failing to comply, and explains the services that are available to support job search and work.

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Sec. 43. **[256J.52] ASSESSMENTS; PLANS.**

Subdivision 1. APPLICATION LIMITED TO CERTAIN PARTICIPANTS.

This section applies to participants receiving MFIP-S assistance who are not exempt under section 256J.56, and to caregivers who volunteer for employment and training services under section 256J.50.

Subd. 2. INITIAL ASSESSMENT. (a) The job counselor must, with the cooperation of the participant, assess the participant's ability to obtain and retain employment. This initial assessment must include a review of the participant's education level, prior employment or work experience, transferable work skills, and existing job markets.

(b) In assessing the participant, the job counselor must determine if the participant needs refresher courses for professional certification or licensure, in which case, the job search plan under subdivision 3 must include the courses necessary to obtain the certification or licensure, in addition to other work activities, provided the combination of the courses and other work activities are at least for 40 hours per week.

(c) If a participant can demonstrate to the satisfaction of the county agency that lack of proficiency in English is a barrier to obtaining suitable employment, the job counselor must include participation in an intensive English as a second language program if available or otherwise a regular English as a second language program in the individual's employment plan under subdivision 5. Lack of proficiency in English is not necessarily a barrier to employment.

(d) The job counselor may approve an education or training plan, and postpone the job search requirement, if the participant has a proposal for an education program which:

(1) can be completed within 12 months;

(2) meets the criteria of section 256J.53, subdivisions 2, 3, and 5; and

(3) is likely, without additional training, to lead to monthly employment earnings which, after subtraction of the earnings disregard under section 256J.21, equal or exceed the family wage level for the participant's assistance unit.

(e) A participant who, at the time of the initial assessment, presents a plan that includes farming as a self-employed work activity must have an employment plan developed under subdivision 5 that includes the farming as an approved work activity.

Subd. 3. JOB SEARCH; JOB SEARCH SUPPORT PLAN. (a) If, after the initial assessment, the job counselor determines that the participant possesses sufficient skills that the participant is likely to succeed in obtaining suitable employment, the participant must conduct job search for a period of up to eight weeks, for at least 30 hours per week. The participant must accept any offer of suitable employment. The job counselor and participant must develop a job search support plan which specifies, at a minimum: whether the job search is to be supervised or unsupervised; support services that will be provided while the participant conducts job search activities; the courses necessary to obtain certification or licensure, if applicable, and after obtaining the license or certificate, the client must comply with subdivision 5; and how frequently the participant must report to the job counselor on the status of the participant's job search activities.

(b) During the eight-week job search period, either the job counselor or the participant may request a review of the participant's job search plan and progress towards ob-

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taining suitable employment. If a review is requested by the participant, the job counselor must concur that the review is appropriate for the participant at that time. If a review is conducted, the job counselor may make a determination to conduct a secondary assessment prior to the conclusion of the job search.

(c) Failure to conduct the required job search, to accept any offer of suitable employment, to develop or comply with a job search support plan, or voluntarily quitting suitable employment without good cause results in the imposition of a sanction under section 256J.46. If at the end of eight weeks the participant has not obtained suitable employment, the job counselor must conduct a secondary assessment of the participant under subdivision 3.

Subd. 4. SECONDARY ASSESSMENT. (a) The job counselor must conduct a secondary assessment for those participants who:

(1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;

(2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment; or

(3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive, or educational services, and the extent of any barriers to employment. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

Subd. 5. EMPLOYMENT PLAN; CONTENTS. Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

Subd. 6. SAFETY PLAN. Notwithstanding subdivisions 1 to 5, a participant who is a victim of domestic violence and who agrees to develop or has developed a safety plan meeting the definition under section 256J.49, subdivision 11, is deferred from the requirements of this section, section 256J.54, and section 256J.55 for a period of three months from the date the safety plan is approved. A participant deferred under this subdivision must submit a safety plan status report to the county agency on a quarterly basis. Based on a review of the status report, the county agency may approve or renew the participant's deferral each quarter, provided the personal safety of the participant is still at risk and the participant is complying with the plan. A participant who is deferred under this subdivision may be deferred for a total of 12 months under a safety plan, provided the individual is complying with the terms of the plan.

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Subd. 7. REVISION OF PLAN. If the employee has lost or quit a job with good cause, the job counselor must ascertain the reason for the job loss and work with the participant to amend the job search support plan or employment plan, whichever is in effect, as necessary to address the problem. If a job search support plan is in effect, the participant, county agency, or job counselor may request a secondary assessment at this time.

Sec. 44. [256J.53] POST-SECONDARY EDUCATION; LIMITATIONS ON APPROVAL, JOB SEARCH REQUIREMENT.

Subdivision 1. LENGTH OF PROGRAM. In order for a post-secondary education or training program to be approved work activity as defined in section 256J.49, subdivision 13, clause (18), it must be a program lasting 12 months or less, and the participant must meet the requirements of subdivisions 2 and 3. A program lasting up to 24 months may be approved on an exception basis if the conditions specified in subdivisions 2 to 4 are met. A participant may not be approved for more than a total of 24 months of post-secondary education or training.

Subd. 2. DOCUMENTATION SUPPORTING PROGRAM. In order for a post-secondary education or training program to be an approved activity in a participant's employment plan, the participant or the employment and training service provider must provide documentation that:

(1) the participant's employment plan identifies specific goals that can only be met with the additional education or training;

(2) there are suitable employment opportunities that requires the specific education or training in the area in which the participant resides or is willing to reside;

(3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;

(4) the participant can meet the requirements for admission into the program; and

(5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP-S assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

Subd. 3. SATISFACTORY PROGRESS REQUIRED. In order for a post-secondary education or training program to be an approved activity in a participant's employment plan, the participant must maintain satisfactory progress in the program. "Satisfactory progress" in an education or training program means (1) the participant remains in good standing while the participant is enrolled in the program, as defined by the education or training institution, or (2) the participant makes satisfactory progress as the term is defined in the participant's employment plan.

Subd. 4. REPAYMENT OF EMPLOYMENT AND TRAINING ASSISTANCE. In order for a post-secondary education or training program lasting between 13 and 24 months to be an approved activity in a participant's employment plan, the participant must agree to repay the amount of employment and training funds paid by the county to support the individual's participation in each month of an education or training program after the 12th month of the program. Assistance obtained by the participant through the federal Pell grant program or other federal or state programs of higher education as-

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sistance must be excluded from the amount to be repaid by the participant. The participant and the county agency must develop a mutually acceptable repayment plan. The repayment plan must not assess any interest charges on the cost of the funds to be repaid. The loan is considered to be in repayment status when:

(1) the participant completes the program and obtains suitable employment that pays annual gross wages of at least 150 percent of the federal poverty level; or

(2) the participant leaves the program before completion of the program and obtains suitable employment that pays annual gross wages of at least 150 percent of the federal poverty level.

Subd. 5. **JOB SEARCH AFTER COMPLETION OF WORK ACTIVITY.** If a participant's employment plan includes a post-secondary educational or training program, the plan must include an anticipated completion date for those activities. At the time the education or training is completed, the participant must participate in job search. If, after three months of job search, the participant does not find a job that is consistent with the participant's employment goal, the participant must accept any offer of suitable employment.

Sec. 45. [256J.54] MINOR PARENTS; EMPLOYMENT PLAN.

Subdivision 1. **ASSESSMENT OF EDUCATIONAL PROGRESS AND NEEDS.** The county agency must document the educational level of each MFIP-S caregiver who is under the age of 20 and determine if the caregiver has obtained a high school diploma or its equivalent. If the caregiver has not obtained a high school diploma or its equivalent, and is not exempt from the requirement to attend school under subdivision 5, the county agency must complete an individual assessment for the caregiver. The assessment must be performed as soon as possible but within 30 days of determining MFIP-S eligibility for the caregiver. The assessment must provide an initial examination of the caregiver's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a caregiver under the age of 18, the assessment must also consider the results of either the caregiver's or the caregiver's minor child's child and teen checkup under Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748, if available, and the effect of a child's development and educational needs on the caregiver's ability to participate in the program. The county agency must advise the caregiver that the caregiver's first goal must be to complete an appropriate educational option if one is identified for the caregiver through the assessment and, in consultation with educational agencies, must review the various school completion options with the caregiver and assist in selecting the most appropriate option.

Subd. 2. **RESPONSIBILITY FOR ASSESSMENT AND EMPLOYMENT PLAN.** For caregivers who are under age 18, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 126.235.

Subd. 3. **EDUCATIONAL OPTION DEVELOPED.** If the job counselor or county social services agency identifies an appropriate educational option, it must devel-

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op an employment plan which reflects the identified option. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the caregiver will take part in, including child care and supportive services, the consequences to the caregiver for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employment plan must, to the extent possible, reflect the preferences of the caregiver.

Subd. 4. NO APPROPRIATE EDUCATIONAL OPTION. If the job counselor determines that there is no appropriate educational option for a caregiver who is age 18 or 19, the job counselor must develop an employment plan, as defined in section 256J.49, subdivision 5, for the caregiver. If the county social services agency determines that school attendance is not appropriate for a caregiver under age 18, the county agency shall refer the caregiver to social services for services as provided in section 257.33.

Subd. 5. SCHOOL ATTENDANCE REQUIRED. (a) Notwithstanding the provisions of section 256J.56, minor parents, or 18- or 19-year-old parents without a high school diploma or its equivalent must attend school unless:

(1) transportation services needed to enable the caregiver to attend school are not available;

(2) appropriate child care services needed to enable the caregiver to attend school are not available;

(3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school; or

(4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.

Sec. 46. [256J.55] PARTICIPANT REQUIREMENTS, RIGHTS, AND EXPECTATIONS.

Subdivision 1. COMPLIANCE WITH JOB SEARCH OR EMPLOYMENT PLAN; SUITABLE EMPLOYMENT. (a) Each MFIP-S participant must comply with the terms of the participant's job search support plan or employment plan. When the participant has completed the steps listed in the employment plan, the participant must comply with section 256J.53, subdivision 5, if applicable, and then the participant must not refuse any offer of suitable employment. The participant may choose to accept an offer of suitable employment before the participant has completed the steps of the employment plan.

(b) For a participant under the age of 20 who is without a high school diploma or general educational development diploma, the requirement to comply with the terms of the employment plan means the participant must meet the requirements of section 256J.54.

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(c) Failure to develop or comply with a job search support plan or an employment plan, or quitting suitable employment without good cause, shall result in the imposition of a sanction as specified in sections 256J.57 and 256J.46.

Subd. 2. DUTY TO REPORT. The participant must inform the job counselor within three working days regarding any changes related to the participant's employment status.

Subd. 3. MOVE TO A DIFFERENT COUNTY. MFIP-S applicants or recipients who move to a different county in Minnesota and are required to participate in employment and training services are subject to the requirements of the destination county. An employment plan that was developed in the county of origin may be continued in the destination county if both the destination county and the participant agree to do so.

Subd. 4. CHOICE OF PROVIDER. A participant must be able to choose from at least two employment and training service providers, unless the county has demonstrated to the commissioner that the provision of multiple employment and training service providers would result in financial hardship for the county, or the county is utilizing a workforce center as specified in section 256J.50, subdivision 8.

Subd. 5. OPTION TO UTILIZE EXISTING PLAN. With job counselor approval, if a participant is already complying with a job search support or employment plan that was developed for a different program, the participant may utilize that plan and that program's services, subject to the requirements of subdivision 3, to be in compliance with sections 256J.52 to 256J.57 so long as the plan meets, or is modified to meet, the requirements of those sections.

Sec. 47. [256J.56] EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.

An MFIP-S caregiver is exempt from the requirements of sections 256J.52 to 256J.55 if the caregiver belongs to any of the following groups:

- (1) individuals who are age 60 or older;
- (2) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;
- (3) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the household;
- (4) women who are pregnant, if the pregnancy has resulted in a professionally certified incapacity that prevents the woman from obtaining or retaining employment;
- (5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;
- (6) individuals employed at least 40 hours per week or at least 30 hours per week and engaged in job search for at least an additional ten hours per week;

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(7) individuals experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days; or

(8) second parents in two-parent families, provided the second parent is employed for 20 or more hours per week.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

Sec. 48. [256J.57] GOOD CAUSE; FAILURE TO COMPLY; NOTICE; CONCILIATION CONFERENCE.

Subdivision 1. GOOD CAUSE FOR FAILURE TO COMPLY. The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of section 256J.45 or sections 256J.52 to 256J.55. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a family member is ill and needs care by the participant that prevents the participant from complying with the job search support plan or employment plan;
- (5) the parental caregiver is unable to secure necessary transportation;
- (6) the parental caregiver is in an emergency situation that prevents compliance with the job search support plan or employment plan;
- (7) the schedule of compliance with the job search support plan or employment plan conflicts with judicial proceedings;
- (8) the parental caregiver is already participating in acceptable work activities;
- (9) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (10) activities identified in the job search support plan or employment plan are not available;
- (11) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or
- (12) the parental caregiver documents other verifiable impediments to compliance with the job search support plan or employment plan beyond the parental caregiver's control.

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Subd. 2. NOTICE OF INTENT TO SANCTION. (a) When a participant fails to comply with the requirements of sections 256J.52 to 256J.55, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in additional sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. If the participant does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the job counselor must notify the county agency that the assistance payment should be reduced. The county must then send a notice of adverse action to the participant informing the participant of the sanction that will be imposed, the reasons for the sanction, the effective date of the sanction, and the participant's right to have a fair hearing under section 256J.40.

(b) The participant may request a conciliation conference by sending a written request, by making a telephone request, or by making an in-person request. The request must be received within ten calendar days of the date the county agency mailed the ten-day notice of intent to sanction. If a timely request for a conciliation is received, the county agency's service provider must conduct the conference within five days of the request. The job counselor's supervisor, or a designee of the supervisor, must review the outcome of the conciliation conference. If the conciliation conference resolves the non-compliance, the job counselor must promptly inform the county agency and request withdrawal of the sanction notice.

(c) Upon receiving a sanction notice, the participant may request a fair hearing under section 256J.40, without exercising the option of a conciliation conference. In such cases, the county agency shall not require the participant to engage in a conciliation conference prior to the fair hearing.

(d) If the participant requests a fair hearing or a conciliation conference, sanctions will not be imposed until there is a determination of noncompliance. Sanctions must be imposed as provided in section 256J.46.

Sec. 49. [256J.61] REPORTING REQUIREMENTS.

The commissioner of human services, in cooperation with the commissioner of economic security, shall develop reporting requirements for county agencies and employment and training service providers according to section 256.01, subdivision 2, paragraph (17). Reporting requirements must, to the extent possible, use existing client tracking systems and must be within the limits of funds available. The requirements must include summary information necessary for state agencies and the legislature to evaluate the effectiveness of the services.

Sec. 50. [256J.62] ALLOCATION OF COUNTY EMPLOYMENT AND TRAINING SERVICES BLOCK GRANT.

Subdivision 1. ALLOCATION. Money appropriated for MFIP-S employment and training services must be allocated to counties as specified in this section.

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Subd. 2. GUARANTEED FLOOR. Money shall be allocated to counties in an amount equal to the county's guaranteed floor. The county's guaranteed allocation floor shall be calculated as follows:

(1) for fiscal 1998, the guaranteed allocation floor shall be calculated by multiplying the county's STRIDE allocation received for state fiscal year 1997 by 90 percent;

(2) for each subsequent fiscal year, the guaranteed allocation floor shall be calculated by multiplying the county's MFIP-S employment and training services allocation received the previous state fiscal year by 90 percent; and

(3) if the amount of funds available for allocation is less than the amount allocated to all counties for the previous fiscal year, each county's previous year allocation shall be reduced in proportion to the reduction in statewide funding for the purpose of establishing the guaranteed floor.

Subd. 3. ALLOCATION OF BALANCE OF FUNDS. If there remain funds to allocate after establishing each county's guaranteed floor under the provisions in subdivision 2, the balance of funds shall be allocated as follows:

(1) for state fiscal year 1998, the remaining funds shall be allocated based on the county's average number of AFDC and family general assistance cases as compared to the statewide total number of cases. The average number of cases shall be based on counts of AFDC and family general assistance cases as of March 31, June 30, September 30, and December 31 of calendar year 1996;

(2) for state fiscal year 1999, the remaining funds shall be allocated based on the county's average number of AFDC, family general assistance, MFIP-R, MFIP, and MFIP-S cases as compared to the statewide total number of cases. The average number of cases shall be based on counts of AFDC, family general assistance, MFIP-R, MFIP, and MFIP-S cases as of March 31, June 30, September 30, and December 31 of calendar year 1997; and

(3) for all subsequent state fiscal years, the remaining funds shall be allocated based on the county's average number of MFIP-S cases as compared to the statewide total number of cases. The average number of cases must be based on counts of MFIP-S cases as of March 31, June 30, September 30, and December 31 of the previous calendar year.

Subd. 4. ADMINISTRATIVE ACTIVITIES LIMIT. No more than 15 percent of the money allocated under this section may be used for administrative activities.

Subd. 4a. STRIDE ALLOCATION. Funds allocated for STRIDE services for state fiscal year 1998 are allocated to county agencies based on the provisions of statute in effect on June 30, 1997. At the time that the AFDC program is replaced by the Temporary Assistance for Needy Families program under title I of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, any unexpended balance of a county's STRIDE allocation for that fiscal year remains available to the county for operation of MFIP-S employment and training services and for the operation of the STRIDE program for the MFIP and MFIP-R field trial counties for the balance of the fiscal year. These STRIDE funds shall be included in the calculation of the next year's MFIP-S employment and training allocation under the provisions of subdivision 2.

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Subd. 5. BILINGUAL EMPLOYMENT AND TRAINING SERVICES TO REFUGEES. Funds appropriated to cover the costs of bilingual employment and training services to refugees shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of AFDC, MFIP-R, or MFIP refugee cases shall not receive an allocation of bilingual employment and training services funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of MFIP-S refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of MFIP-S refugee cases shall not receive an allocation of bilingual employment and training services funds.

Subd. 6. WORK LITERACY LANGUAGE PROGRAMS. Funds appropriated to cover the costs of work literacy language programs to non-English speaking recipients shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC or MFIP cases in the previous fiscal year where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of AFDC or MFIP cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of MFIP-S cases in the previous fiscal year where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of MFIP-S cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds.

Subd. 7. REALLOCATION. The commissioner of human services shall review county agency expenditures of MFIP-S employment and training services funds at the end of the third quarter of the first year of the biennium and each quarter after that and may reallocate unencumbered or unexpended money appropriated under this section to those county agencies that can demonstrate a need for additional money.

Subd. 8. CONTINUATION OF CERTAIN SERVICES. At the request of the caregiver, the county may continue to provide case management, counseling or other support services to a participant following the participant's achievement of the employment goal, for up to six months following termination of the participant's eligibility for MFIP-S.

A county may expend funds for a specific employment and training service for the duration of that service to a participant if the funds are obligated or expended prior to the participant losing MFIP-S eligibility.

Sec. 51. [256J.645] INDIAN TRIBE MFIP-S EMPLOYMENT AND TRAINING.

Subdivision 1. AUTHORIZATION TO ENTER INTO AGREEMENTS. Effective July 1, 1997, the commissioner may enter into agreements with federally recognized

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Indian tribes with a reservation in the state to provide MFIP-S employment and training services to members of the Indian tribe and to other caregivers who are a part of the tribal member's MFIP-S assistance unit. For purposes of this section, "Indian tribe" means a tribe, band, nation, or other federally recognized group or community of Indians. The commissioner may also enter into an agreement with a consortium of Indian tribes providing the governing body of each Indian tribe in the consortium complies with the provisions of this section.

Subd. 2. TRIBAL REQUIREMENTS. The Indian tribe must:

(1) agree to fulfill the responsibilities provided under the employment and training component of MFIP-S regarding operation of MFIP-S employment and training services, as designated by the commissioner;

(2) operate its employment and training services program within a geographic service area not to exceed the counties within which a border of the reservation falls;

(3) operate its program in conformity with section 13.46 and any applicable federal regulations in the use of data about MFIP-S recipients;

(4) coordinate operation of its program with the county agency, Job Training Partnership Act programs, and other support services or employment-related programs in the counties in which the tribal unit's program operates;

(5) provide financial and program participant activity recordkeeping and reporting in the manner and using the forms and procedures specified by the commissioner and permit inspection of its program and records by representatives of the state; and

(6) have the Indian tribe's employment and training service provider certified by the commissioner of economic security, or approved by the county.

Subd. 3. FUNDING. If the commissioner and an Indian tribe are parties to an agreement under this subdivision, the agreement may annually provide to the Indian tribe the funding amount in clause (1) or (2):

(1) if the Indian tribe operated a tribal STRIDE program during state fiscal year 1997, the amount to be provided is the amount the Indian tribe received from the state for operation of its tribal STRIDE program in state fiscal year 1997, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state funds available for MFIP-S employment and training services increased or decreased that fiscal year; or

(2) if the Indian tribe did not operate a tribal STRIDE program during state fiscal year 1997, the commissioner may provide to the Indian tribe for the first year of operations the amount determined by multiplying the state allocation for MFIP-S employment and training services to each county agency in the Indian tribe's service delivery area by the percentage of MFIP-S recipients in that county who were members of the Indian tribe during the previous state fiscal year. The resulting amount shall also be the amount that the commissioner may provide to the Indian tribe annually thereafter through an agreement under this subdivision, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state funds available for MFIP-S employment and training services increased or decreased that fiscal year.

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Subd. 4. COUNTY AGENCY REQUIREMENT. Indian tribal members receiving MFIP-S benefits and residing in the service area of an Indian tribe operating employment and training services under an agreement with the commissioner must be referred by county agencies in the service area to the Indian tribe for employment and training services.

Sec. 52. [256J.65] THE SELF-EMPLOYMENT INVESTMENT DEMONSTRATION PROGRAM (SEID).

(a) A caregiver who enrolls and participates in the SEID program as specified in section 268.95, may, at county option, be exempted from other employment and training participation requirements for a period of up to 24 months, except for the school attendance requirements as specified in section 256J.54.

(b) The following income and resource considerations apply to SEID participants:

(1) an unencumbered cash reserve fund, composed of proceeds from a SEID business, is not counted against the grant if those funds are reinvested in the business and the value of the business does not exceed \$3,000. The value of the business is determined by deducting outstanding encumbrances from retained business profit; and

(2) the purchase of capital equipment and durable goods of an amount up to \$3,000 during a 24-month project period is allowed as a business expense.

(c) SEID participants with a county-approved employment plan are also eligible for employment and training services, including child care and transportation.

Sec. 53. [256J.66] ON-THE-JOB TRAINING.

Subdivision 1. ESTABLISHING THE ON-THE-JOB TRAINING PROGRAM. (a) County agencies may develop on-the-job training programs for MFIP-S caregivers who are participating in employment and training services. A county agency that chooses to provide on-the-job training may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) Provision of an on-the-job training program under the Job Training Partnership Act, in and of itself, does not qualify as an on-the-job training program under this section.

(c) Participants in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Subd. 2. TRAINING AND PLACEMENT. (a) County agencies shall limit the length of training based on the complexity of the job and the caregiver's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

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(b) Placement of any participant in an on-the-job training position must be compatible with the participant's assessment and employment plan under section 256J.52.

Sec. 54. [256J.67] COMMUNITY WORK EXPERIENCE.

Subdivision 1. ESTABLISHING THE COMMUNITY WORK EXPERIENCE PROGRAM. To the extent of available resources, each county agency may establish and operate a work experience component for MFIP-S caregivers who are participating in employment and training services. This option for county agencies supersedes the requirement in section 402(a)(1)(B)(iv) of the Social Security Act that caregivers who have received assistance for two months and who are not exempt from work requirements must participate in a work experience program. The purpose of the work experience component is to enhance the caregiver's employability and self-sufficiency and to provide meaningful, productive work activities. The county shall use this program for an individual after exhausting all other employment opportunities. The county agency shall not require a caregiver to participate in the community work experience program unless the caregiver has been given an opportunity to participate in other work activities.

Subd. 2. COMMISSIONER'S DUTIES. The commissioner shall assist counties in the design and implementation of these components.

Subd. 3. EMPLOYMENT OPTIONS. (a) Work sites developed under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to aged or disabled citizens, and child care. To the extent possible, the prior training, skills, and experience of a caregiver must be considered in making appropriate work experience assignments.

(b) Structured, supervised volunteer work with an agency or organization, which is monitored by the county service provider, may, with the approval of the county agency, be used as a work experience placement.

(c) As a condition of placing a caregiver in a program under this section, the county agency shall first provide the caregiver the opportunity:

(1) for placement in suitable subsidized or unsubsidized employment through participation in a job search; or

(2) for placement in suitable employment through participation in on-the-job training, if such employment is available.

Subd. 4. EMPLOYMENT PLAN. (a) The caretaker's employment plan must include the length of time needed in the work experience program, the need to continue job-seeking activities while participating in work experience, and the caregiver's employment goals.

(b) After each six months of a caregiver's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the caregiver's employment plan.

(c) A caregiver may claim good cause under section 256J.57, subdivision 1, for failure to cooperate with a work experience job placement.

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(d) The county agency shall limit the maximum number of hours any participant may work under this section to the amount of the transitional standard divided by the federal or applicable state minimum wage, whichever is higher. After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the transitional standard divided by the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site. This limit does not apply if it would prevent a participant from counting toward the federal work participation rate.

Sec. 55. [256J.68] INJURY PROTECTION FOR WORK EXPERIENCE PARTICIPANTS.

Subdivision 1. **APPLICABILITY.** (a) This section must be used to determine payment of any claims resulting from an alleged injury or death of a person participating in a county or a tribal community work experience program that is approved by the commissioner and is operated by:

- (i) the county agency;
- (ii) the tribe;
- (iii) a department of the state; or

(iv) a community-based organization under contract, prior to April 1, 1997, with a county agency to provide a community work experience program or a food stamp community work experience program, provided the organization has not experienced any individual injury loss or claim greater than \$1,000.

(b) This determination method is available to the community-based organization under clause (iv) only for claims incurred by participants in the community work experience program or the food stamp community work experience program.

(c) This determination method applies to work experience programs authorized by the commissioner for persons applying for or receiving cash assistance and food stamps, and to the Minnesota parent's fair share program and the community service program under section 518.551, subdivision 5a, in a county with an approved community investment program for obligors.

Subd. 2. **INVESTIGATION OF THE CLAIM.** Claims that are subject to this section must be investigated by the county agency or the tribal program responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency or tribal program shall submit the claim to the appropriate insurance entity for payment. The investigating county agency or tribal program shall submit all valid claims, in the amount net of any insurance payments, to the department of human services.

Subd. 3. **SUBMISSION OF CLAIM.** The commissioner shall submit all claims for permanent partial disability compensation to the commissioner of labor and industry. The commissioner of labor and industry shall review all submitted claims and recommend to the department of human services an amount of compensation comparable to that which would be provided under the permanent partial disability compensation schedule of section 176.101, subdivision 2a.

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Subd. 4. CLAIMS LESS THAN \$1,000. The commissioner shall approve a claim of \$1,000 or less for payment if appropriated funds are available, if the county agency or tribal program responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The commissioner shall pay the portion of an approved claim of \$1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims of \$1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the commissioner to operate this program. Any unspent money from this appropriation shall carry over to the second year of the biennium, and any unspent money remaining at the end of the second year shall be returned to the state general fund.

Subd. 5. CLAIMS MORE THAN \$1,000. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of \$1,000 and a list of claims of \$1,000 or less that were submitted to but not paid by the commissioner, together with any recommendations of appropriate compensation. These claims shall be heard and determined by the appropriate committees of the senate and house of representatives and, if approved, must be paid under the legislative claims procedure.

Subd. 6. COMPENSATION FOR CERTAIN COSTS. Compensation paid under this section is limited to reimbursement for reasonable medical expenses and permanent partial disability compensation for disability in like amounts as allowed in section 176.101, subdivision 2a. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount up to \$200,000. No compensation shall be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

Subd. 7. EXCLUSIVE PROCEDURE. The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state, county, tribal, or reservation insurance policy or self-insurance program.

Subd. 8. INVALID CLAIMS. A claim is not valid for purposes of this section if the county agency responsible for supervising the work cannot verify to the commissioner:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this section; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards. A claim that is not valid because of failure to verify safety training or compliance with safety standards will not be paid by the department of human services or through the legislative claims process and must be heard, decided, and paid, if appropri-

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ate, by the local government unit or tribal program responsible for supervising the work of the claimant.

Sec. 56. [256J.69] GRANT DIVERSION.

Subdivision 1. ESTABLISHING THE GRANT DIVERSION PROGRAM. (a) County agencies may develop grant diversion programs for MFIP-S participants participating in employment and training services. A county agency that chooses to provide grant diversion may divert to an employer part or all of the MFIP-S cash payment for the participant's assistance unit, in compliance with federal regulations and laws. Such payments to an employer are to subsidize employment for MFIP-S participants as an alternative to public assistance payments.

(b) In addition to diverting the MFIP-S grant to the employer, employment and training funds may be used to subsidize the grant diversion placement.

(c) Participants in grant diversion shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Subd. 2. TRAINING AND PLACEMENT. (a) County agencies shall limit the length of training to nine months. Placement in a grant diversion training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in a grant diversion subsidized training position must be compatible with the assessment and employment plan or employability development plan established for the recipient under section 256J.52 or 256K.03, subdivision 8.

Sec. 57. [256J.72] NONDISPLACEMENT IN WORK ACTIVITIES.

Subdivision 1. NONDISPLACEMENT PROTECTION. For job assignments under jobs programs established under this chapter or chapter 256, 256D, or 256K, the county agency must provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and ensure that no work assignment under this chapter or chapter 256, 256D, or 256K results in:

(1) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section;

(2) the hiring of an individual if any other person is on layoff, including seasonal layoff, from the same or a substantially equivalent job;

(3) any infringement of the promotional opportunities of any currently employed individual;

(4) the impairment of existing contract for services of collective bargaining agreements; or

(5) a participant filling an established unfilled position vacancy, except for on-the-job training.

The written notification must be provided to the appropriate exclusive bargaining representatives at least 14 days in advance of placing recipients in temporary public ser-

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vice employment. The notice must include the number of individuals involved, their work locations and anticipated hours of work, a summary of the tasks to be performed, and a description of how the individuals will be trained and supervised.

Subd. 2. DISPUTE RESOLUTION. (a) If there is a dispute between an exclusive bargaining representative and a county provider or employer over whether job duties are within the scope of a collective bargaining unit, the exclusive bargaining representative, the county, the provider, or the employer may petition the bureau of mediation services to determine if the job duties are within the scope of a collective bargaining unit, and the bureau shall render a binding decision.

(b) In the event of a dispute under this section, the parties may:

(1) use a grievance and arbitration procedure of an existing collective bargaining agreement to process a dispute over whether a violation of the nondisplacement provisions has occurred; or

(2) if no grievance and arbitration procedure is in place, either party may submit the dispute to the bureau. The commissioner of the bureau of mediation services shall establish a procedure for a neutral, binding resolution of the dispute.

Subd. 3. STATUS OF PARTICIPANT. A participant may not work in a temporary public service or community service job for a public employer for more than 67 working days or 536 hours, whichever is greater, as part of a work program established under chapter 256, 256D, 256J, or 256K. A participant who exceeds the time limits in this subdivision is a public employee, as that term is used in chapter 179A. Upon the written request of the exclusive bargaining representative, a county or public service employer shall make available to the affected exclusive bargaining representative a report of hours worked by participants in temporary public service or community service jobs.

Sec. 58. [256J.74] RELATIONSHIP TO OTHER PROGRAMS.

Subdivision 1. SOCIAL SERVICES. The county agency shall refer a participant for social services that are offered in the county of financial responsibility according to the criteria established by that county agency under Minnesota Rules, parts 9550.0010 to 9550.0092. A payment issued from federal funds under title XX of the Social Security Act, state funds under the Community Social Services Act, federal or state child welfare funds, or county funds in a payment month must not restrict MFIP-S eligibility or reduce the monthly assistance payment for that participant.

Subd. 2. CONCURRENT ELIGIBILITY, LIMITATIONS. A county agency must not count an applicant or participant as a member of more than one assistance unit in a given payment month, except as provided in clauses (1) and (2).

(1) A participant who is a member of an assistance unit in this state is eligible to be included in a second assistance unit in the first full month that the participant leaves the first assistance unit and lives with a second assistance unit.

(2) An applicant whose needs are met through foster care that is reimbursed under title IV-E of the Social Security Act for the first part of an application month is eligible to receive assistance for the remaining part of the month in which the applicant returns home. Title IV-E payments and adoption assistance payments must be considered prorated payments rather than a duplication of MFIP-S need.

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Subd. 3. EMERGENCY ASSISTANCE, ASSISTANCE UNIT WITH A MINOR CHILD. An MFIP-S assistance unit with a minor child or a pregnant woman without a minor child is eligible for emergency assistance when the assistance unit meets the requirements in section 256J.48, subdivision 2.

Subd. 4. MEDICAL ASSISTANCE. Medical assistance eligibility for MFIP-S participants shall be determined as described in chapter 256B.

Sec. 59. [256J.75] COUNTY OF FINANCIAL RESPONSIBILITY POLICIES.

Subdivision 1. COUNTY OF FINANCIAL RESPONSIBILITY. The county of financial responsibility is the county in which a minor child or pregnant woman lives on the date the application is signed, unless subdivision 4 applies. When more than one county is financially responsible for the members of an assistance unit, financial responsibility must be assigned to a single county beginning the first day of the calendar month after the assistance unit members are required to be in a single assistance unit. Financial responsibility must be assigned to the county that was initially responsible for the assistance unit member with the earliest date of application. The county in which the assistance unit is currently residing becomes financially responsible for the entire assistance unit beginning two full calendar months after the month in which financial responsibility was consolidated in one county.

Subd. 2. CHANGE IN RESIDENCE. (a) When an assistance unit moves from one county to another and continues to receive assistance, the new county of residence becomes the county of financial responsibility when that assistance unit has lived in that county in nonexcluded status for two full calendar months. "Nonexcluded status" means the period of residence that is not considered excluded time under section 256G.02, subdivision 6. When a minor child moves from one county to another to reside with a different caregiver, the caregiver in the former county is eligible to receive assistance for that child only through the last day of the month of the move. The caregiver in the new county becomes eligible to receive assistance for the child the first day of the month following the move or the date of application, whichever is later.

(b) When an applicant moves from one county to another while the application is pending, the county where application first occurred is the county of financial responsibility until the applicant has lived in the new county for two full calendar months, unless the applicant's move is covered under section 256G.02, subdivision 6.

Subd. 3. RESPONSIBILITY FOR INCORRECT ASSISTANCE PAYMENTS. A county of residence, when different from the county of financial responsibility, will be charged by the commissioner for the value of incorrect assistance payments and medical assistance paid to or on behalf of a person who was not eligible to receive that amount. Incorrect payments include payments to an ineligible person or family resulting from decisions, failures to act, miscalculations, or overdue recertification. However, financial responsibility does not accrue for a county when the recertification is overdue at the time the referral is received by the county of residence or when the county of financial responsibility does not act on the recommendation of the county of residence. When federal or state law requires that medical assistance continue after assistance ends, this subdivision also governs financial responsibility for the extended medical assistance.

Subd. 4. EXCLUDED TIME. When an applicant or participant resides in an excluded time facility as described in section 256G.02, subdivision 6, the county that is fi-

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nancially responsible for the applicant or participant is the county in which the applicant or participant last resided outside such a facility immediately before entering the facility. When an applicant or participant has not resided in this state for any time other than excluded time as defined in section 256G.02, subdivision 6, the county that is financially responsible for the applicant or participant is the county in which the applicant or participant resides on the date the application is signed.

Sec. 60. [256J.76] COUNTY ADMINISTRATIVE AID.

Subdivision 1. ADMINISTRATIVE FUNCTIONS. Beginning July 1, 1997, counties will receive federal funds from the TANF block grant for use in supporting eligibility, fraud control, and other related administrative functions. The federal funds available for distribution, as determined by the commissioner, must be an amount equal to federal administrative aid distributed for fiscal year 1996 under titles IV-A and IV-F of the Social Security Act in effect prior to October 1, 1996. This amount must include the amount paid for local collaboratives under sections 245.4932 and 256F.13, but must not include administrative aid associated with child care under section 119B.05, with emergency assistance intensive family preservation services under section 256.8711, with administrative activities as part of the employment and training services under section 256.736, or with fraud prevention investigation activities under section 256.983.

Subd. 2. ALLOCATION OF COUNTY FUNDS. The commissioner shall determine and allocate the funds available to each county, on a calendar year basis, proportional to the amount paid to each county for fiscal year 1996, excluding the amount paid for local collaboratives under sections 245.4932 and 256F.13. For the period beginning July 1, 1997, and ending December 31, 1998, each county shall receive 150 percent of its base year allocation.

Subd. 3. MONTHLY PAYMENTS TO COUNTIES. The commissioner shall pay counties monthly as federal funds are available. The commissioner may certify the payments for the first three months of a calendar year.

Subd. 4. REPORTING REQUIREMENT. The commissioner shall specify requirements for reporting according to section 256.01, subdivision 2, paragraph (17). Each county shall be reimbursed at a rate of 50 percent of eligible expenditures up to the limit of its allocation.

Sec. 61. NOTICE AND REFERRAL PROCEDURES FOR DOMESTIC VIOLENCE VICTIMS.

The commissioner of human services shall develop procedures for the county agencies and their contractors to identify victims of domestic violence. The procedures must provide, at a minimum, universal notification to all applicants and recipients of MFIP-S that:

(1) referrals to counseling and supportive services are available for victims of domestic violence;

(2) nonpermanent resident battered individuals married to U.S. citizens or permanent residents may be eligible to petition for permanent residency under the Violence Against Women Act, and that referrals to appropriate legal services are available; and

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(3) victims of domestic violence are exempt from the 60-month limit on assistance while the individual is complying with an approved safety plan, as defined in section 256J.49, subdivision 11.

Notification must be in writing and orally at the time of application and recertification, when the individual is referred to the title IV-D child support agency, and at the beginning of any job training or work placement assistance program.

Sec. 62. **DISCONTINUATION OF WAIVERS.**

If the federal government refuses to continue waivers granted on or before August 11, 1996, or if the federal government refuses to modify such waivers as requested by the department of human services, then the department of human services may implement the MFIP-S program in compliance with the federal mandate until the end of the next legislative session. The department of human services shall publish its decision to implement the federal mandate in the State Register and propose legislation to address the conflict in the next legislative session.

Sec. 63. **COUNTY PERFORMANCE STANDARDS.**

(a) Beginning July 1, 1998, and each quarter thereafter, the commissioner of human services shall inform all counties of each county's performance on the following measures:

- (1) MFIP-S caseload reduction;
- (2) average placement wage rate;
- (3) rate of job retention after three months;
- (4) placement rate into unsubsidized jobs;

(5) federal participation requirements as specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996;

(6) the average length of time an individual receives public assistance, beginning with new MFIP-S applicants, and the rate of recidivism; and

(7) the cost per placement of an individual in unsubsidized employment.

(b) By January 1, 1998, the counties and the commissioner shall establish performance standards for each of the measures in paragraph (a).

(c) By July 1, 1998, the counties and the commissioner shall develop a plan to allocate, if such sanctions occur, federal sanctions between the state and counties resulting from a failure to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996.

(d) The commissioner shall report the plan to the legislature by October 1, 1998.

Sec. 64. **FINDINGS; CONTINGENT BENEFIT STANDARDS.**

Subdivision 1. FINDINGS. For purposes of Minnesota Statutes, sections 256J.12 and 256J.43, the legislature makes the following findings:

(1) the legislature is statutorily required to balance the state budget, and, in balancing the state budget, faces competing funding priorities with limited resources;

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(2) the legislature expects that federal financial support for state-administered welfare programs, including the Minnesota family investment program, will decrease in the wake of the federal welfare reform legislation;

(3) many states are using the flexibility given to them under the federal welfare reform legislation to enact more restrictive welfare programs than Minnesota;

(4) despite likely weaker federal financial support and the trend in other states toward more restrictive welfare programs, the legislature wishes to continue to reform the state's welfare system and manage funds appropriated for the Minnesota family investment program so that the state may provide meaningful assistance for all needy Minnesota families and their children;

(5) the legislature intends to provide a safety net for recent interstate migrants and to encourage their self-sufficiency;

(6) Minnesota county human service agencies have reported to the commissioner of human services verified cases of individuals from other states to this state at least in part because this state has higher cash assistance benefits;

(7) the legislature anticipates that, as other states further restrict their welfare programs, migration to this state by families seeking higher welfare benefits will increase significantly and may cause expenditures in excess of the funds appropriated for this program;

(8) the policy of the state of Minnesota is to make welfare benefits a neutral factor in a family's decision to move to Minnesota, which is required for the state to continue its commitment to reform its welfare system and to provide meaningful assistance for needy Minnesota families and their children;

(9) if new residents experience any harm under Minnesota Statutes, sections 256J.12 and 256J.43, such harm is mitigated, since new residents, if eligible, can receive benefits immediately under a hardship exemption; and in all cases, if eligible, can receive cash assistance after 30 days; if eligible, they will receive the cash assistance based on the assistance standard they would have received in their previous state of residence for families of the same size;

(10) without Minnesota Statutes, sections 256J.12 and 256J.43, the hardship to the state and its needy families and children would be great because significant reductions in welfare benefits will likely occur; and

(11) Minnesota Statutes, sections 256J.12 and 256J.43, advance the public interest of continuing to provide meaningful assistance to needy Minnesota families and their children while providing a safety net for recent interstate migrants.

Subd. 2. REDUCTION IF COURT ENJOINTMENT. In the event a court enjoins enforcement of Minnesota Statutes, section 256J.12 or 256J.43, this subdivision shall apply. Beginning July 1, 1997, the commissioner of human services shall monitor the number of individual applicants for AFDC under Minnesota Statutes, chapter 256, and for public assistance under this chapter who have lived in this state for less than 12 consecutive months and shall implement clauses (1) to (3) when the commissioner determines that the cumulative number of such applicants since July 1, 1997, has reached at least 1,500. The commissioner shall:

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(1) reduce the assistance standards for the AFDC program and the transitional standards for the MFIP-S program under this chapter for all recipients but only in an amount sufficient to remain within the forecasted budgets for those programs; reductions shall take effect beginning with payments made at the start of the second calendar month following the commissioner's determination that the conditions specified in this paragraph have occurred; make caregivers who have lived in this state for less than 12 consecutive months ineligible for child care assistance provided through the AFDC, MFIP-S, MFIP-R, and MFIP programs, and the basic sliding fee child care program. Education and training are not work activities for purposes of caregivers who have lived in this state for less than 12 months. These caregivers shall immediately comply with job search requirements until there is an offer of suitable employment, and the caregiver shall accept any offer of suitable employment;

(2) notify the fiscal and policy chairs of the house and senate human services committees that the reductions have taken place; and

(3) formulate a plan to be presented to the next legislative session.

Sec. 65. **TRANSFER FUNDING.**

Effective July 1, 1997, all funding related to the child care assistance programs under Minnesota Statutes, section 256.035, subdivision 8, is transferred to the commissioner of children, families, and learning.

Sec. 66. **TRIBAL EMPLOYMENT AND TRAINING PROGRAM; REPORT.**

Subdivision 1. **AUTHORITY.** Effective July 1, 1997, the commissioner of human services, in conjunction with Indian tribes in the state, shall develop and present to the legislature a plan for providing state funds in support of a family assistance program administered by Indian tribes that have a reservation in this state and have federal approval to operate a tribal program. This plan must identify the primary arrangements needed to effect tribal administration and needed funding, including agreements with a consortium of tribes, that accurately reflect the state funding levels for Indian people as would otherwise be available to MFIP-S program recipients. This plan must be developed consistent with the requirements set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, section 412(b)(1)(B). For purposes of this section, "Indian tribe" means a tribe, band, nation, or other federally recognized group or community of Indians.

Subd. 2. **REPORT TO THE LEGISLATURE.** The plan referred to in subdivision 1 and any resulting proposal for legislation must be presented to the legislature by December 15, 1997.

Subd. 3. **TRIBAL AGREEMENTS.** Once the plan in subdivision 1 is presented to and approved by the legislature and signed into law, the commissioner is authorized to enter into agreements with Indian tribes or consortia of tribes consistent with the plan.

Subd. 4. **TRIBAL AND STATE COORDINATION.** The commissioner shall consult with Indian tribes in the state when formulating general policies regarding the implementation of the state's public assistance program operated under title IV-A of the Social Security Act. The commissioner shall take into consideration circumstances affecting Indians, including circumstances identified by Indian tribes, when designing the state's program. The state shall provide Indians with equitable access to assistance as pro-

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vided in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, section 402(a)(5).

Subd. 5. EMPLOYMENT TRAINING. Nothing in this section precludes any Indian tribe in this state from participating in employment and training or child care programs otherwise available by law to Indian tribes under:

(1) the MFIP program under Minnesota Statutes, sections 256.031 to 256.0361, or its successor program;

(2) project STRIDE under Minnesota Statutes, section 256.736, or its successor program;

(3) child care programs for tribal program participants; and

(4) the Minnesota injury protection program.

Subd. 6. TRIBAL SOVEREIGN STATUS. Nothing in this section shall be construed to waive, modify, expand, or diminish the sovereignty of federally recognized Indian tribes, nor shall any Indian tribes be required in any way to deny their sovereignty or waive their immunities except as mandated by federal law as a requirement of entering into an agreement with the state under this section.

Subd. 7. PLANNING. The commissioner of human services shall assist tribes, in a collaborative effort, with the development of the plan under subdivision 1 and efforts associated with such development. Such efforts shall include, but not be limited to, data collection regarding: receipt of public assistance by Indians, unemployment rates within tribal service delivery areas, and dissemination of information and research. The commissioner shall provide technical assistance to tribal welfare reform task force members and tribes regarding the implementation and operation of public assistance programs and assistance to tribes to develop the plan under subdivision 1.

Sec. 67. FORECASTING FUNDS.

The MFIP-S program is not an entitlement. For the assistance to families grants part of the budget, the commissioner of human services shall not expend more funds than the appropriations made available by the legislature. Appropriations made available must include the state appropriated funds and federal funds specified for this purpose and other available funds transferred from other accounts as allowed by Minnesota law. Regardless of this limitation on expenditures, the total projected costs of this program must be forecasted and recognized in the fund balance.

Sec. 68. STUDY; NONCUSTODIAL MINOR PARENTS.

The commissioner shall study and report back to the legislature by February 1, 1998, with recommendations for legislative changes related to minor parents and the obligations of noncustodial minor parents and their parents to cover the cost of caring for the custodial parent and child who are living in households specified in Minnesota Statutes, section 256J.14, subdivision 1, paragraph (a), or in other adult-supervised living arrangements.

Sec. 69. ADMINISTRATIVE RULES.

The commissioner of human services may adopt rules to implement Minnesota Statutes, chapters 256J and 256K. Because of the need for flexible and swift means of imple-

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menting this program statewide, the rules adopted by the commissioner to implement this program are exempted from Minnesota Statutes, chapter 14, until February 28, 1999. The commissioner shall prepare legislation for submission to the legislature in 1998 incorporating the substance of any rules adopted under this section and repealing those rules.

Sec. 70. STUDY OF WORKING FAMILIES EXCEPTION TO 60-MONTH LIMIT.

The commissioner of human services shall report to the legislature by January 15, 1998, on the feasibility of establishing an exception to the 60-month lifetime limit on TANF-funded assistance for families in which the caregiver or caregivers are employed for a substantial number of hours each week or are both employed and attending an educational program.

Sec. 71. TOTAL HOUSEHOLD INCOME COUNTED.

Effective January 1, 1999, notwithstanding any provision of Minnesota Statutes, chapter 256J, to the contrary, eligibility for assistance under Minnesota Statutes, chapter 256J, the Minnesota family investment program—statewide, must count income from all unrelated individuals living in the household in order to qualify for MFIP-S assistance.

Sec. 72. REPAYMENT OF POST-SECONDARY EDUCATION FUNDS; PROPOSAL REQUIRED.

By February 15, 1998, the commissioner of human services, in consultation with representatives of county agencies, must develop and submit to the legislature a proposal that specifies a methodology for the repayment of funds under Minnesota Statutes 1996, section 256J.53, subdivision 4. The commissioner's proposal must not apply the methodology retroactively to participants who had a post-secondary education or training program approved under that section before the date that the commissioner's proposal, if enacted, becomes effective.

Sec. 73. SEVERABILITY CLAUSE.

If any provision of this act is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining provisions shall remain valid and shall be given full effect.

Sec. 74. REPEALER.

(a) Minnesota Statutes 1996, sections 256.12, subdivisions 9, 10, 14, 15, 19, 20, 21, 22, and 23; 256.72; 256.73, subdivisions 1, 1a, 1b, 2, 3a, 3b, 5, 5a, 6, 8, 8a, 9, 10, and 11; 256.7341; 256.7365, subdivisions 1, 2, 3, 4, 5, 6, 7, and 9; 256.7366; 256.737; 256.738; 256.7381; 256.7382; 256.7383; 256.7384; 256.7385; 256.7386; 256.7387; 256.7388; 256.739; 256.74, subdivisions 1, 1a, 1b, 2, and 6; 256.745; 256.75; 256.76, subdivision 1; 256.78; 256.80; 256.81; 256.84; 256.85; 256.86; 256.863; 256.871; and 256.879, are repealed effective July 1, 1998.

(b) Minnesota Statutes 1996, section 256.736, subdivisions 16 and 18, are repealed effective June 30, 1997.

(c) From January 1, 1998, to March 31, 1998, the statutory sections listed in paragraph (a) apply only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the MFIP comparison group, and in those

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counties that have not completed conversion to MFIP-S employment and training services.

(d) From April 1, 1998, through June 30, 1998, the sections listed in paragraph (a) are effective only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the comparison group.

Sec. 75. EFFECTIVE DATE.

(a) Sections 2, 7, 8, 16, 32, 33, 60, 61, and 64 are effective July 1, 1997.

(b) The remaining provisions of this article are effective January 1, 1998, unless otherwise specified in the section.

ARTICLE 2

WORK FIRST PROGRAM PILOT PROJECTS

Section 1. [256K.01] WORK FIRST PROGRAM.

Subdivision 1. CITATION. Sections 256K.01 to 256K.09 may be cited as the work first program.

Subd. 2. DEFINITIONS. As used in sections 256K.01 to 256K.09, the following words have the meanings given them.

(a) "Applicant" means an individual who has submitted a request for assistance and has never received an AFDC, MFIP-S or a family general assistance grant through the MAXIS computer system as a caregiver, or an applicant whose AFDC, MFIP-S or family general assistance application was denied or benefits were terminated due to noncompliance with work first requirements.

(b) "Application date" means the date any Minnesota county agency receives a signed and dated combined application form Part I.

(c) "CAF" means a combined application form on which people apply for multiple assistance programs, including: cash assistance, refugee cash assistance, Minnesota supplemental aid, food stamps, medical assistance, general assistance medical care, emergency assistance, emergency medical assistance, and emergency general assistance medical care.

(d) "Caregiver" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving an AFDC, MFIP-S, or family general assistance grant. In a two-parent family, both parents are caregivers.

(e) "Child support" means a voluntary or court-ordered payment by absent parents in an assistance unit.

(f) "Commissioner" means the commissioner of human services.

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(g) "Department" means the department of human services.

(h) "Employability development plan" or "EDP" means a plan developed by the applicant, with advice from the employment advisor, for the purposes of identifying an employment goal, improving work skills through certification or education, training or skills recertification, and which addresses barriers to employment.

(i) "EDP status report form" means a program form on which deferred participants indicate what has been achieved in the participant's employability development plan and the types of problems encountered.

(j) "Employment advisor" means a program staff member who is qualified to assist the participant to develop a job search or employability development plan, match the participant with existing job openings, refer the participant to employers, and has an extensive knowledge of employers in the area.

(k) "Financial specialist" means a program staff member who is trained to explain the benefits offered under the program, determine eligibility for different assistance programs, and broker other resources from employers and the community.

(l) "Job network" means individuals that a person may contact to learn more about particular companies, inquire about job leads, or discuss occupational interests and expertise.

(m) "Job search allowance" means the amount of financial assistance needed to support job search.

(n) "Job search plan" or "JSP" means the specific plan developed by the applicant, with advice from the employment advisor, to secure a job as soon as possible, and focus the scope of the job search process and other activities.

(o) "JSP status report form" means a program form on which participants indicate the number of submitted job applications, job interviews held, jobs offered, other outcomes achieved, problems encountered, and the total number of hours spent on job search per week.

(p) "Participant" means a recipient who is required to participate in the work first program.

(q) "Program" means the work first program.

(r) "Provider" means an employment and training agency certified by the commissioner of economic security under section 268.871, subdivision 1.

(s) "Self-employment" means employment where people work for themselves rather than an employer, are responsible for their own work schedule, and do not have taxes or FICA withheld by an employer.

(t) "Self-sufficiency agreement" means the agreement between the county or its representative and the applicant that describes the activities that the applicant must conduct and the necessary services and aid to be furnished by the county to enable the individual to meet the purpose of either the job search plan or employability development plan.

(u) "Subsidized job" means a job that is partly reimbursed by the provider for cost of wages for participants in the program.

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Subd. 3. ESTABLISHING WORK FIRST PROGRAM. The commissioners of human services and economic security may develop and establish pilot projects which require applicants for aid under AFDC, MFIP-S or family general assistance to meet the requirements of the work first program. The purpose of the program is to:

- (1) ensure that the participant is working as early as possible;
- (2) promote greater opportunity for economic self-support, participation, and mobility in the work force; and
- (3) minimize the risk for long-term welfare dependency.

Subd. 4. PROGRAM ADMINISTRATION. The program must be administered in a way that, in addition to the county agency, other sectors in the community such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, labor unions, and neighborhood associations are involved.

Subd. 5. PROGRAM DESIGN. The program shall meet the following principles:

- (1) work is the primary means of economic support;
- (2) the individual's potential is reviewed during the application process to determine how to approach the job market aggressively;
- (3) public aid such as cash and medical assistance, child care, child support assurance, and other cash benefits are used to support intensive job search and immediate work; and
- (4) maximum use is made of tax credits to supplement income.

Subd. 6. DUTIES OF COMMISSIONER. In addition to any other duties imposed by law, the commissioner shall:

- (1) establish the program according to sections 256K.01 to 256K.09 and allocate money as appropriate to pilot counties participating in the program;
- (2) provide systems development and staff training;
- (3) accept and supervise the disbursement of any funds that may be provided from other sources for use in the demonstration program; and
- (4) direct a study to safeguard the interests of children.

Subd. 7. DUTIES OF COUNTY AGENCY. The county agency shall:

- (1) collaborate with the commissioners of human services and economic security and other agencies to develop, implement, and evaluate the demonstration of the work first program;
- (2) operate the work first program in partnership with private and public employers, local industry councils, labor unions, and employment, educational, and social service agencies, according to subdivision 4; and
- (3) ensure that program components such as client orientation, immediate job search, job development, creation of temporary public service jobs, job placements, and postplacement follow-up are implemented according to the work first program.

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Subd. 8. **DUTIES OF PARTICIPANT.** To be eligible for an AFDC, MFIP-S or family general assistance benefit, a participant shall cooperate with the county agency, the provider, and the participant's employer in all aspects of the program.

Sec. 2. **[256K.015] ELIGIBILITY FOR WORK FIRST.**

To be eligible for work first, an applicant must meet the eligibility requirements of AFDC or MFIP-S, whichever is in effect in the county, to the extent that those requirements are not inconsistent with this chapter.

Sec. 3. **[256K.02] PROGRAM PARTICIPANTS; PROGRAM EXPECTATIONS.**

All applicants selected for participation are expected to meet the requirements under the work first program. Payments for rent and utilities up to the AFDC, MFIP-S, or family general assistance program benefits to which the assistance unit is entitled will be vendor paid for as many months as the applicant is eligible or six months, whichever comes first. The residual amount after vendor payment, if any, will be paid to the recipient, unless it is used as a wage subsidy under section 256K.04, subdivision 2.

Sec. 4. **[256K.03] PROGRAM REQUIREMENTS.**

Subdivision 1. NOTIFICATION OF PROGRAM. Except for the provisions in this section, the provisions for the AFDC, MFIP-S, and family general assistance application process shall be followed. Within two days after receipt of a completed combined application form, the county agency must refer to the provider the applicant who meets the conditions under section 256K.02, and notify the applicant in writing of the program including the following provisions:

(1) notification that, as part of the application process, applicants are required to attend orientation, to be followed immediately by a job search;

(2) the program provider, the date, time, and location of the scheduled program orientation;

(3) the procedures for qualifying for and receiving benefits under the program;

(4) the immediate availability of supportive services, including, but not limited to, child care, transportation, medical assistance, and other work-related aid; and

(5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for exemptions and deferrals, the consequences for refusing or failing to participate fully, and the appeal process.

Subd. 2. PROGRAM ORIENTATION. The county must give a face-to-face orientation regarding the program to the applicant within five days after the date of application. The orientation must be designed to inform the applicant of:

(1) the importance of locating and obtaining a job as soon as possible;

(2) benefits to be provided to support work;

(3) the manner by which benefits shall be paid;

(4) how other supportive services such as medical assistance, child care, transportation, and other work-related aid shall be available to support job search and work;

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(5) the consequences for failure without good cause to comply with program requirements; and

(6) the appeal process.

Subd. 3. JOB SEARCH PLAN; EMPLOYMENT ADVISOR; FINANCIAL SPECIALIST. At the end of orientation, the provider must assign an employment advisor and a financial specialist to the applicant. With advice from the employment advisor, the applicant must develop a job search plan based on existing job markets, prior employment, work experience, and transferable work skills, unless exempt under subdivision 5. A job search must be planned and conducted for a period of up to eight consecutive weeks from the date of application and for at least 32 hours per week. The types of and target number of job openings to be pursued per week must be written in the job search plan. The following activities may be included in the job search plan:

(1) motivational counseling;

(2) job networking or training on how to locate job openings;

(3) development of a personal resume; and

(4) information on how to conduct job interviews and establish a personal job network.

Following the development of the job search plan or the employability development plan under subdivision 8, the financial specialist must interview the applicant to determine eligibility for and the extent of benefits under sections 256K.06 and 256K.07 to support the job search or employability development plan. The provider must attach to the appropriate plan the summary of the necessary enabling services and benefits to be furnished by the provider. The provider or its representative and the applicant must sign the plan, with its attachment, to indicate a self-sufficiency agreement between the provider and the participant.

Subd. 4. IMMEDIATE JOB SEARCH. An applicant must be required to begin job search within seven days after the date of application for at least 32 hours per week for up to eight weeks, unless exempt under subdivision 5 or deferred under subdivision 8. For an applicant who is working at least 20 hours per week, job search shall consist of 12 hours per week for up to eight weeks. Within the first five days of job search, the applicant is required to initiate informational contacts with prospective employers, generate additional job leads from the job network, review references and experiences from previous employment, and carry out the other activities under the job search plan developed under subdivision 3.

Subd. 5. EXEMPTION CATEGORIES. (a) The applicant will be exempt from the job search requirements and development of a job search plan and an employability development plan under subdivisions 3, 4, and 8 if the applicant belongs to any of the following groups:

(1) caregivers under age 20 who have not completed a high school education and are attending high school on a full-time basis;

(2) individuals who are age 60 or older;

(3) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

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(4) caregivers whose presence in the home is needed because of illness or incapacity of another member in the household;

(5) women who are pregnant, if it has been medically verified that the child is expected to be born within the next six months;

(6) caregivers or other caregiver relatives of a child under the age of three who personally provide full-time care for the child;

(7) individuals employed at least 30 hours per week;

(8) individuals for whom participation would require a round trip commuting time by available transportation of more than two hours, excluding transporting of children for child care;

(9) individuals for whom lack of proficiency in English is a barrier to employment, provided such individuals are participating in an intensive program which lasts no longer than six months and is designed to remedy their language deficiency;

(10) individuals who, because of advanced age or lack of ability, are incapable of gaining proficiency in English, as determined by the county social worker, shall continue to be exempt under this subdivision and are not subject to the requirement that they be participating in a language program;

(11) individuals under such duress that they are incapable of participating in the program, as determined by the county social worker; or

(12) individuals in need of refresher courses for purposes of obtaining professional certification or licensure.

(b) In a two-parent family, only one caregiver may be exempted under paragraph (a), clauses (4) and (6).

Subd. 6. COUNTY DUTIES. The county must act on the application within 30 days of the application date. If the applicant is not eligible, the application will be denied and the county must notify the applicant of the denial in writing. An applicant whose application has been denied may be allowed to complete the job search plan; however, supportive services will not be provided.

Subd. 7. JOB SEARCH PLAN STATUS REPORT. The applicant or participant must submit a completed job search plan status report form to the employment advisor every two weeks during the job search process, with the first completed form due 21 days after the date of application.

Subd. 8. EMPLOYABILITY DEVELOPMENT PLAN. At the discretion and approval of the employment advisor, the applicant may be deferred from the requirement to conduct at least 32 hours of job search per week for up to eight consecutive weeks, if during the development of the job search plan, the applicant is determined to:

(1) not have worked within the past 12 months and not have a high school or a general equivalency diploma provided the applicant agrees to develop and carry out an employability development plan instead of job search, and concurrently work for at least 16 hours per week in a temporary public service job. The employability development plan must include the employment goals and specific outcomes the participant must achieve;

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(2) be within six months of completing any post-secondary training program, provided that the applicant agrees to develop and carry out an employability development plan instead of a job search, and concurrently work for a minimum number of hours per week in a temporary public service job. The employability development plan must include the employment goal and specific outcomes that the participant must achieve. The applicant that is deferred under this subdivision may choose to work in a job other than a public service job for a minimum number of hours per week rather than in a temporary public service job. For individuals who are participating in an educational program under this clause, and who are attending school full time as determined by the institution, there is no work requirement. For individuals participating in an educational program on a part-time basis as determined by the institution, the minimum number of hours that a participant must work shall be decreased as the participant increases the number of credit hours taken, except that the participant shall not be required to work more than eight hours per week.

During vacation periods of one month or more, the 16-hour per week minimum work requirement shall apply. The applicant may be deferred for up to six months. At the end of the deferment period, the participant must develop a job search plan and conduct at least 32 hours of job search per week for up to eight consecutive weeks, and submit reports as required under subdivisions 3 and 4; or

(3) be in treatment for chemical dependency, be a victim of domestic abuse, or be homeless, provided that the applicant agrees to develop an employability development plan instead of a job search plan, and immediately follow through with the activities in the employability development plan. The employability development plan must include specific outcomes that the applicant must achieve for the duration of the employability development plan and activities which are needed to address the issues identified. Under this clause, the applicant may be deferred for up to eight weeks.

Subd. 9. EDP STATUS REPORT. The participant who is deferred from job search under subdivision 8 must submit a completed employability development plan status report form to the employment advisor every 14 days as long as the participant continues to be deferred, with the first completed form due 21 days after the date of application.

Subd. 10. JOB OFFER. The participant must not refuse any job offer, provided that the job is within the participant's physical and mental abilities, pays hourly gross wages of not less than the applicable state or federal minimum wage, and meets health and safety standards set by federal, state, and county agencies. If a job is offered, the participant must inform the provider immediately to redetermine eligibility for and extent of benefits and services to support work. To enhance job retention, the provider may provide services such as motivational counseling or on-site problem solving for up to six months. The participant who has completed at least six months of work in a nonsubsidized job shall be encouraged to participate in a training program that would improve the participant's ability to obtain a job that pays a higher wage.

Subd. 11. DUTY TO REPORT. The participant must immediately inform the provider regarding any changes related to the participant's employment status.

Subd. 12. REQUIREMENT TO WORK IN A TEMPORARY PUBLIC SERVICE JOB. (a) If after the completion of the maximum eight weeks of job search the participant has failed to secure a nonsubsidized or a subsidized job for at least 32 hours

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per week, or does not earn a net income from self-employment that is equal to at least the AFDC, MFIP-S or family general assistance monthly grant for the household size, whichever is applicable, the participant is required to work in a temporary public service job for up to 67 working days for (1) at least 32 hours per week, or (2) a period equivalent to the result of dividing the monthly grant amount which the participant would otherwise receive, by the federal hourly minimum wage, or applicable hourly state minimum wage, or the hourly rate of pay for individuals employed in the same occupation at the site, whichever is highest. If the result is more than 128 hours per month, the participant's requirement to work in a temporary public service job shall not be more than 32 hours per week.

(b) Within seven days from the date of application, the participant who is deferred under subdivision 8, clause (1) or (2), and is participating in an educational program on a part-time basis must work in a temporary public service job as required under subdivision 8, clause (2).

(c) The provider shall strive to match the profile of the participant with the needs of the employers that are participating in a temporary jobs program under section 256K.05.

Sec. 5. [256K.04] JOB DEVELOPMENT AND SUBSIDY.

Subdivision 1. JOB INVENTORY. The provider must develop an inventory of job openings including full-time, part-time, permanent, temporary or seasonal, and training positions in partnership with private and public employers, local industry councils, and employment agencies. To the extent possible, the inventory must include specific information regarding job openings, must be updated on a weekly basis, and must be available to all participants on a daily basis.

Subd. 2. JOB SUBSIDY. The county may use all or part of the AFDC, MFIP-S or family general assistance benefit as a subsidy to employers for the purpose of providing work experience or training to the participant who has completed the job search plan, provided that:

(1) the job to be subsidized is permanent and full time, and pays an hourly rate of at least \$6 per hour;

(2) the employer agrees to retain the participant after satisfactory completion of the work experience or training period; and

(3) the participant has first tried to secure a nonsubsidized job by following the job search plan.

The subsidy may be available for up to six months.

Sec. 6. [256K.05] TEMPORARY JOBS PROGRAM.

Subdivision 1. PROGRAM ESTABLISHED. The provider must establish and operate a program to provide temporary jobs to participants who, after eight weeks of job search, are not hired into a nonsubsidized or a subsidized job, or are deferred under section 256K.03, subdivision 8. The temporary jobs to be created under this section must be public service jobs that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to the aged or disabled citizens, and child care.

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Subd. 2. ASSIGNMENT TO TEMPORARY PUBLIC SERVICE JOBS. The provider must assign the participant who (1) is within completion of the required eight weeks of job search and has failed to secure a nonsubsidized or a subsidized job for at least 32 hours per week, or (2) does not earn a net income from self-employment that is equal to at least the AFDC, MFIP-S or family general assistance monthly grant for the household size, whichever is applicable, to a temporary public service job. The assignment must be made seven days before the end of the job search and be based on section 256K.03, subdivision 12. The participant that is deferred under section 256K.03, subdivision 8, will be assigned by the provider to a temporary public service job within seven days after the application.

Subd. 3. PARTICIPANT'S STATUS. The participant who is working in a temporary public service job under this section is not considered an employee for the purposes of unemployment insurance compensation, retirement, or civil service laws, and shall not perform work ordinarily performed by a public employee.

Subd. 4. CONTINUOUS JOB SEARCH REQUIREMENT. At the discretion of the provider, the participant who is working in a temporary public service job under section 256K.03, subdivision 12, may be required to continue to look for a job for up to eight hours per week in addition to working. The participant who is working at least 20 hours per week but less than 32 hours per week in a nonsubsidized or subsidized job may be required to look for a job for up to 20 hours per week in lieu of work in the temporary public service job so that the total hours of work and job search is not more than 40 hours per week.

Subd. 5. EXCUSED ABSENCES. The participant who is working in a temporary public service job may be allowed excused absences from the assigned temporary job site up to eight hours per month. For purposes of this subdivision, "excused absence" means absence due to temporary illness or injury of the caregiver or a member of the caregiver's family, the unavailability of appropriate child care or unavailability of transportation needed to go to and from the work site, a job interview, or a nonmedical emergency. For purposes of this subdivision, "emergency" means a sudden, unexpected occurrence or situation of a serious or urgent nature that requires action.

Subd. 6. MOVE TO A DIFFERENT COUNTY. If the applicant or recipient who is required to participate in the work first program moves to a different county in this state, the benefits and enabling services agreed upon in the self-sufficiency agreement shall be provided by the pilot county where the applicant or recipient originated, provided the move was part of the job search or employability development plan. If the applicant or recipient is moving to a different county for failure to comply with the requirements of the work first program, the applicant or recipient will not be eligible for MFIP-S in this state for at least six months from the date of the move.

Sec. 7. [256K.06] TRANSITIONAL BENEFITS TO SUPPORT WORK; RENT AND UTILITIES VENDOR PAYMENT.

Payments for rent and utilities up to the amount of AFDC, MFIP-S, or family general assistance benefits to which the assistance unit is entitled shall be provided in the form of vendor payments for as many months as the applicant is eligible or six months, whichever comes first. The residual amount after vendor payment, if any, will be paid to the AFDC, MFIP-S, or family general assistance recipient, unless it is used as a wage subsi-

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dy under section 256K.04, subdivision 2. This provision shall apply to all applicants including those meeting the exemption categories under section 256K.03, subdivision 5, or deferral categories under section 256K.03, subdivision 8. To the extent needed, a job search allowance shall be provided for up to eight weeks to cover expenses related to the job search. Before the job search allowance is issued, it must be approved by the employment advisor and financial specialist, and clearly described in the job search plan.

Sec. 8. [256K.07] ELIGIBILITY FOR FOOD STAMPS, MEDICAL ASSISTANCE, AND CHILD CARE.

The participant shall be treated as an AFDC, MFIP-S or family general assistance recipient, whichever is applicable, for food stamps, medical assistance, and child care eligibility purposes. The participant who leaves the program as a result of increased earnings from employment shall be eligible for transitional Medical Assistance and child care without regard to AFDC, MFIP-S or family general assistance receipt in three of the six months preceding ineligibility.

Sec. 9. [256K.08] SANCTIONS AND APPEAL PROCESS.

Subdivision 1. GOOD CAUSE. (a) For purposes of this subdivision, "good cause" means absence due to temporary illness or injury of the participant or a member of the participant's family, the unavailability of appropriate child care or unavailability of transportation needed to attend orientation or conduct job search, or a nonmedical emergency as defined under section 256K.05, subdivision 5.

(b) The applicant who is required, but fails, without good cause, to participate in orientation, complete the job search plan or employability development plan, and comply with the job search requirements under section 256K.03, prior to being eligible for AFDC, MFIP-S or family general assistance shall be denied benefits. The applicant will not be eligible for benefits in this state for at least six months.

(c) If, after receiving a written warning from the county, the participant fails, without good cause, to conduct at least 32 hours of job search per week in any given two-week period, the participant will be immediately required to work for at least 16 hours per week in a temporary public service job. The required 32 hours per week of job search will be reduced to 16 hours.

(d) If the participant who is deferred under section 256K.03, subdivision 8, fails to comply with the activities described in the employability development plan, the participant will lose the deferment status, provided that the participant has received at least two written warnings from the provider.

(e) If the participant refuses to work in a temporary public service job, or is terminated from a temporary public service job for failure to work, benefits to the assistance unit shall be terminated and the participant shall not be eligible for aid under the MFIP-S program for at least six months from the date of refusal or termination. If the participant, before completing at least four consecutive months of employment, voluntarily quits or is terminated from a nonsubsidized or a subsidized job, the participant shall immediately be assigned to work in a temporary public service job for at least 32 hours per week for up to 67 working days unless the participant is hired or rehired into a nonsubsidized or subsidized job.

Subd. 2. NOTICE OF SANCTIONS. If the county determines that the participant has failed or refused without good cause, as defined in subdivision 1, to cooperate with

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the program requirements, the county shall inform the participant in writing of its intent to impose an applicable sanction listed under subdivision 1 and the opportunity to have a conciliation conference upon request and within five days of the notice before a sanction is imposed.

Sec. 10. [256K.09] FUNDING.

Subdivision 1. LEVERAGING GRANT AMOUNT TO SECURE OTHER FUNDS. The county agency or the provider, in cooperation with the department, may leverage the grant amount to secure other funds from employers, foundations, and the community for the purpose of developing additional components to benefit children and improve the program.

Subd. 2. EMPLOYER REIMBURSEMENT. The employer shall be reimbursed for wages paid to participants under Minnesota Statutes, section 256K.04, subdivision 2.

Sec. 11. REPEALER.

Minnesota Statutes 1996, sections 256.7351; 256.7352; 256.7353; 256.7354; 256.7355; 256.7356; 256.7357; 256.7358; and 256.7359, are repealed.

Sec. 12. EFFECTIVE DATE.

Article 2 is effective July 1, 1997.

ARTICLE 3

ASSISTANCE PROGRAM CHANGES

Section 1. Minnesota Statutes 1996, section 256.031, is amended by adding a subdivision to read:

Subd. 6. END OF FIELD TRIALS. Upon agreement with the federal government, the field trials of the Minnesota family investment plan will end June 30, 1998. Families in the comparison group under subdivision 3, paragraph (d), clause (i), receiving aid to families with dependent children under sections 256.72 to 256.87, and STRIDE services under section 256.736 will continue in those programs until June 30, 1998. After June 30, 1998, families who cease receiving assistance under the Minnesota family investment plan and comparison group families who cease receiving assistance under AFDC and STRIDE who are eligible for the Minnesota family investment program—statewide (MFIP-S), medical assistance, general assistance medical care, or the food stamp program shall be placed with their consent on the programs for which they are eligible.

Sec. 2. Minnesota Statutes 1996, section 256.033, subdivision 1, is amended to read:

Subdivision 1. ELIGIBILITY CONDITIONS. (a) A family is entitled to assistance under the Minnesota family investment plan if the family is assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d), and:

(1) the family meets the definition of assistance unit under section 256.032, subdivision 1a;

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- (2) the family's resources not excluded under subdivision 3 do not exceed \$2,000;
- (3) the family can verify citizenship or lawful resident alien status; and

(4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes; and

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii); and

~~(3) \$50 of child support collected in that month.~~

(d) A family can remain eligible for the program if:

(1) it meets the conditions in subdivision 1a; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under subdivision 1a.

Sec. 3. Minnesota Statutes 1996, section 256.033, subdivision 1a, is amended to read:

Subd. 1a. **TREATMENT OF INCOME FOR THE PURPOSES OF CONTINUED ELIGIBILITY.** To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:

(a) The \$30 and one-third and \$90 disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money appropriated for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

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(d) The first \$50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from developing or complying with the terms of a family support agreement, or has had a sanction imposed under subdivision 3.

Sec. 4. Minnesota Statutes 1996, section 256.736, subdivision 3a, is amended to read:

Subd. 3a. **PARTICIPATION.** (a) Except as provided under paragraphs (b) and (c), Participation in employment and training services under this section is limited to the following recipients:

- (1) caretakers who are required to participate in a job search under subdivision 14;
 - (2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b;
 - (3) caretakers whose participation in employment and training services began prior to May 1, 1990, if the caretaker's AFDC eligibility has not been interrupted for 30 days or more and the caretaker's employability development plan has not been completed;
 - (4) recipients who are members of a family in which the youngest child is within two years of being ineligible for AFDC due to age;
 - (5) custodial parents under the age of 24 who: (i) have not completed a high school education and who, at the time of application for AFDC, were not enrolled in high school or in a high school equivalency program; or (ii) have had little or no work experience in the preceding year;
 - (6) recipients who have received AFDC for 36 or more months out of the last 60 months;
 - (7) recipients who are participants in the self-employment investment demonstration project under section 268.95; and
 - (8) recipients who participate in the new chance research and demonstration project under contract with the department of human services and
- (3) after the county agency assures the availability of employment and training services for recipients identified under clauses (1) and (2), and to the extent of available resources, any other AFDC recipient.

(b) ~~If the commissioner determines that participation of persons listed in paragraph (a) in employment and training services is insufficient either to meet federal performance targets or to fully utilize funds appropriated under this section, the commissioner may, after notifying the chairs of the senate family services committee, the house health and human services committee, the family services division of the senate family services and health care committees, and the human services division of the house health and human services committee, permit additional groups of recipients to participate until the next meeting of the legislative advisory commission, after which the additional groups may continue to enroll for participation unless the legislative advisory commission disap-~~

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proves the continued enrollment. The commissioner shall allow participation of additional groups in the following order only as needed to meet performance targets or fully utilize funding for employment and training services under this section:

(1) recipients who have received 24 or more months of AFDC out of the previous 48 months; and

(2) recipients who have not completed a high school education or a high school equivalency program.

(e) To the extent of money appropriated specifically for this paragraph, the commissioner may permit AFDC caretakers who are not eligible for participation in employment and training services under the provisions of paragraph (a) or (b) to participate. Money must be allocated to county agencies based on the county's percentage of participants statewide in services under this section in the prior calendar year. Caretakers must be selected on a first-come, first-served basis from a waiting list of caretakers who volunteer to participate. The commissioner may, on a quarterly basis, reallocate unused allocations to county agencies that have sufficient volunteers. If funding under this paragraph is discontinued in future fiscal years, caretakers who began participating under this paragraph must be deemed eligible under paragraph (a), clause (3).

(d) Participants who are eligible and enroll in the STRIDE program under one of the categories of this subdivision are required to cooperate with the assessment and employability plan development and to meet the terms of their employability plan. Failure to comply, without good cause, shall result in the imposition of sanctions as specified in subdivision 4, clause (6).

Sec. 5. Minnesota Statutes 1996, section 256.74, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT.** The amount of assistance which shall be granted to or on behalf of any dependent child and parent or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with according to rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. To the extent permissible under federal law, an eligible relative caretaker or parent shall have the option to include in the assistance unit the needs, income, and resources of the following essential persons who are not otherwise eligible for AFDC because they do not qualify as a caretaker or as a dependent child:

(1) a parent or relative caretaker's spouse and stepchildren; or

(2) blood or legally adopted relatives who are under the age of 18 or under the age of 19 years who are regularly attending as a full-time student, and are expected to complete before or during the month of their 19th birthday, a high school or secondary level course of vocational or technical training designed to prepare students for gainful employment. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an AFDC family must be budgeted in the normal retrospective cycle. When the family's income, after application of the applicable disregards, exceeds the need standard for the family because of receipt of earned or unearned lump sum income, the family will be ineligible for the full number of months derived by dividing the sum of

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the lump sum income and other income by the monthly need standard for a family of that size. Any income remaining from this calculation is income in the first month following the period of ineligibility. The first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. For purposes of applying the lump sum provision, family includes those persons defined in the Code of Federal Regulations, title 45, section 233.20(a)(3)(ii)(F). A period of ineligibility must be shortened when the standard of need increases and the amount the family would have received also changes, an amount is documented as stolen, an amount is unavailable because a member of the family left the household with that amount and has not returned, an amount is paid by the family during the period of ineligibility to cover a cost that would otherwise qualify for emergency assistance, or the family incurs and pays for medical expenses which would have been covered by medical assistance if eligibility existed. In making its determination the county agency shall disregard the following from family income:

(1) all the earned income of each dependent child applying for AFDC if the child is a full-time student and all of the earned income of each dependent child receiving AFDC who is a full-time student or is a part-time student who is not a full-time employee. A student is one who is attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment and includes a participant in the Job Corps program under the Job Training Partnership Act (JTPA). The county agency shall also disregard all income of each dependent child applying for or receiving AFDC when the income is derived from a program carried out under JTPA, except that disregard of earned income may not exceed six months per calendar year;

(2) all educational assistance, except the county agency shall count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(3) the first \$90 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant according to rules promulgated by the commissioner;

(4) thirty dollars plus one-third of each individual's earned income for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; (b) refused without good cause to accept an offer of suitable employment; (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregarded; or (d) (c) failed without good cause to make a timely report of earned income in accordance with according to rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by apply-

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ing the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of \$30 and one-third of earned income in this clause shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of subclauses (a) to (d) shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this clause, the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: (a) \$175 for each individual age two and older, and \$200 for each individual under the age of two. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) the first \$50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit. The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance. A review of a payment decision under this clause must be requested within 30 days after receiving the notice of collection of assigned support or within 90 days after receiving the notice if good cause can be shown for not making the request within the 30-day limit;

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; and

(8) (7) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

All payments made pursuant according to a court order for the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order.

Sec. 6. Minnesota Statutes 1996, section 256.74, is amended by adding a subdivision to read:

Subd. 1c. MFIP AND MFIP-R COMPARISON GROUP FAMILIES. Notwithstanding subdivision 1, the limitations of this subdivision apply to MFIP and MFIP-R comparison group families under sections 256.031 to 256.0361. The disregard of thirty

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dollars plus one-third of earned income in this subdivision shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of subclauses (a) to (c) of subdivision 1 shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this subdivision, the individual must not be a recipient of and for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12 month period beginning with the first month of AFDC ineligibility.

Sec. 7. Minnesota Statutes 1996, section 256.81, is amended to read:

256.81 COUNTY AGENCY, DUTIES.

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency unless paid by the state agency. Payment must be in the form of a warrant immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution, except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. There is a presumption of mismanagement of funds whenever a recipient is more than 30 days in arrears on payment of rent, except when the recipient has withheld rent to enforce the recipient's right to withhold the rent in accordance with federal, state, or local housing laws. In cases of mismanagement based solely on failure to pay rent, the county may vendor the rent payments to the landlord. At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.

(3) The state or county may ask the recipient to give written consent authorizing the state or county to provide advance notice to a vendor before vendor payments of rent are reduced or terminated. Whenever possible under state and federal laws and regulations and if the recipient consents, the state or county shall provide at least 30 days notice to vendors before vendor payments of rent are reduced or terminated. If 30 days notice cannot be given, the state or county shall notify the vendor within three working days after the date the state or county becomes aware that vendor payments of rent will be reduced or terminated. When the county notifies a vendor that vendor payments of rent will be reduced or terminated, the county shall include in the notice that it is illegal to discriminate on the grounds that a person is receiving public assistance and the penalties for violation. The county shall also notify the recipient that it is illegal to discriminate on the grounds that a person is receiving public assistance and the procedures for filing a complaint. The county agency may develop procedures, including using the MAXIS system,

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to implement vendor notice and may charge vendors a fee not exceeding \$5 to cover notification costs.

(4) A vendor payment arrangement is not a guarantee that a vendor will be paid by the state or county for rent, goods, or services furnished to a recipient, and the state and county are not liable for any damages claimed by a vendor due to failure of the state or county to pay or to notify the vendor on behalf of a recipient, except under a specific written agreement between the state or county and the vendor or when the state or county has provided a voucher guaranteeing payment under certain conditions.

(5) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(6) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

(7) The affected county may require that assistance paid under the AFDC emergency assistance program in the form of a utility deposit or rental unit damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

Sec. 8. Minnesota Statutes 1996, section 256.82, subdivision 2, is amended to read:

Subd. 2. **FOSTER CARE MAINTENANCE PAYMENTS.** Notwithstanding subdivision 1, for the purposes of foster care maintenance payments under Title IV-E of the federal Social Security Act, United States Code, title 42, sections 670 to 676, during the period beginning July 1, 1985, and ending December 31, 1985, the county paying the maintenance costs shall be reimbursed for the costs from those federal funds available for that purpose together with an amount of state funds equal to a percentage of the difference between the total cost and the federal funds made available for payment. This percentage shall not exceed the percentage specified in subdivision 1 for the aid to families with dependent children program. In the event that the state appropriation for this purpose is less than the state percentage set in subdivision 1, the reimbursement shall be ratably reduced to the county. Beginning January 1, 1986, for the purpose of foster care maintenance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the county paying the maintenance costs must be reimbursed for the costs from the federal money available for the purpose. Beginning July 1, 1997, for the purposes of determining a child's eligibility under title IV-E of the Social Security Act, the placing agency shall use AFDC requirements in effect on June 1, 1995.

Sec. 9. Minnesota Statutes 1996, section 256.9354, is amended by adding a subdivision to read:

Subd. 8. **SPONSOR'S INCOME AND RESOURCES DEEMED AVAILABLE.** When determining eligibility for any federal or state benefits under sections 256.9351 to 256.9363 and 256.9366 to 256.9369, the income and resources of all noncitizens whose sponsor signed an affidavit of support as defined under the United State Code, title 8, sec-

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tion 1183a shall be deemed to include their sponsors' income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422.

Sec. 10. Minnesota Statutes 1996, section 256B.055, subdivision 3, is amended to read:

Subd. 3. **AFDC FAMILIES.** Until March 31, 1998, medical assistance may be paid for a person who is eligible for or receiving, or who would be eligible for, except for excess income or assets, public assistance under the aid to families with dependent children program in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193.

Sec. 11. Minnesota Statutes 1996, section 256B.055, is amended by adding a subdivision to read:

Subd. 3a. **MFIP-S FAMILIES; FAMILIES ELIGIBLE UNDER PRIOR AFDC RULES.** (a) Beginning January 1, 1998, or on the date that MFIP-S is implemented in counties, medical assistance may be paid for a person receiving public assistance under the MFIP-S program.

(b) Beginning January 1, 1998, medical assistance may be paid for a person who would have been eligible for public assistance under the income and resource standards and deprivation requirements, or who would have been eligible but for excess income or assets, under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193.

Sec. 12. Minnesota Statutes 1996, section 256B.055, subdivision 5, is amended to read:

Subd. 5. **PREGNANT WOMEN; DEPENDENT UNBORN CHILD.** Medical assistance may be paid for a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, who meets the other eligibility criteria of this section and who would be categorically eligible for assistance under the aid to families with dependent children program state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, if the child had been born and was living with the woman. For purposes of this subdivision, a woman is considered pregnant for 60 days postpartum.

Sec. 13. Minnesota Statutes 1996, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. **INCOME AND ASSETS GENERALLY.** Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used, except that payments made pursuant according to a court order for the support of children shall be excluded from income in an amount not to exceed the difference between the applicable income standard used in the state's medical assistance program for aged, blind, and disabled per-

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sons and the applicable income standard used in the state's medical assistance program for families with children. Exclusion of court-ordered child support payments is subject to the condition that if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for modification of the support order. For families and children, which includes all other eligibility categories, the methodologies for the aid to families with dependent children program under section 256.73 under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, shall be used. Effective upon federal approval, in-kind contributions to, and payments made on behalf of, a recipient, by an obligor, in satisfaction of or in addition to a temporary or permanent order for child support or maintenance, shall be considered income to the recipient. For these purposes, a "methodology" does not include an asset or income standard, or accounting method, or method of determining effective dates.

Sec. 14. Minnesota Statutes 1996, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **ASSET LIMITATIONS.** To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members, (husband and wife, or parent and child), the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance pursuant according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets that are excluded by the aid to families with dependent children program excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, for families and children, and the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:

- (a) Household goods and personal effects are not considered.
- (b) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered.
- (c) Motor vehicles are excluded to the same extent excluded by the supplemental security income program.
- (d) Assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program.

Sec. 15. Minnesota Statutes 1996, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **INCOME.** To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of 120 percent of the income standards by family size used in under the aid to families with dependent children program state

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plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. In computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509. Veterans aid and attendance benefits are considered income to the recipient.

Sec. 16. Minnesota Statutes 1996, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. **PREGNANT WOMEN AND INFANTS.** (a) An infant less than one year of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, except for the earned income disregard and employment deductions. An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3.

(b) An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

Sec. 17. Minnesota Statutes 1996, section 256B.057, subdivision 1b, is amended to read:

Subd. 1b. **PREGNANT WOMEN AND INFANTS; EXPANSION.** (a) This subdivision supersedes subdivision 1 as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. An infant less than two years of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, except for the earned income disregard and employment

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deductions. An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than two years of age. Eligibility for a pregnant woman or infant less than two years of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3.

(b) An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's second birthday, as long as the child remains in the woman's household.

Sec. 18. Minnesota Statutes 1996, section 256B.057, subdivision 2b, is amended to read:

Subd. 2b. **NO ASSET TEST FOR CHILDREN AND THEIR PARENTS; EXPANSION.** This subdivision supersedes subdivision 2a as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this subdivision expires and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. Eligibility for medical assistance for a person under age 21, and the person's parents or relative caretakers as defined in the aid to families with dependent children program according to chapter 256, who are eligible under section 256B.055, subdivision 3 under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, and who live in the same household as the person eligible under age 21, must be determined without regard to asset standards established in section 256B.056.

Sec. 19. Minnesota Statutes 1996, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **CITIZENSHIP REQUIREMENTS.** (a) Eligibility for medical assistance is limited to citizens of the United States and aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of law. Aliens who are seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, who are under age 18, over age 65, blind, disabled, or Cuban or Haitian, and who meet the eligibility requirements of medical assistance under subdivision 1 and sections 256B.055 to 256B.062 are eligible to receive medical assistance. Pregnant women who are aliens seeking legalization under the Immigration Reform and Control Act of 1986, Public Law Number 99-603, and who meet the eligibility requirements of medical assistance under subdivision 1 are eligible for payment of care and services through the period of pregnancy and six weeks postpartum. Payment shall also be made for care and services that are furnished to an alien, regardless of immigration status, who otherwise meets the eligibility requirements of this section if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services. For purposes of this subdivision, the term "emergency medical condition" means a medical condition, including labor and de-

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livery, that if not immediately treated could cause a person physical or mental disability, continuation of severe pain, or death, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7); or

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-200.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of chapter 256B are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States code, title 8, section 1253(h);

(iv) veterans of the United States Armed Forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States Armed Forces, other than for training, their spouses and unmarried minor dependent children.

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Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of chapter 256B are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of chapter 256B, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented or nonimmigrants, who otherwise meet the eligibility requirements of chapter 256B, are eligible for medical assistance payment without federal financial participation for care and services through the period of pregnancy, and 60 days postpartum, except for labor and delivery.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) The commissioner shall submit to the legislature by December 31, 1998, a report on the number of recipients and cost of coverage of care and services made according to paragraphs (i) and (j).

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Sec. 20. Minnesota Statutes 1996, section 256B.06, is amended by adding a subdivision to read:

Subd. 5. DEEMING OF SPONSOR INCOME AND RESOURCES. When determining eligibility for any federal or state funded medical assistance under this section, the income and resources of all noncitizens shall be deemed to include their sponsors' income and resources as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422. This section is effective the day following final enactment.

Sec. 21. Minnesota Statutes 1996, section 256B.062, is amended to read:

256B.062 CONTINUED ELIGIBILITY.

Medical assistance may be paid for persons who received aid to families with dependent children in at least three of the six months preceding the month in which the person became ineligible for aid to families with dependent children, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485. This section is repealed effective March 31, 1998.

Sec. 22. [256B.0635] CONTINUED ELIGIBILITY IN SPECIAL CIRCUMSTANCES.

Subdivision 1. INCREASED EMPLOYMENT. Beginning January 1, 1998, medical assistance may be paid for persons who received MFIP-S or medical assistance for families and children in at least three of six months preceding the month in which the person became ineligible for MFIP-S or medical assistance, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP-S must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.

Subd. 2. INCREASED CHILD OR SPOUSAL SUPPORT. Beginning January 1, 1998, medical assistance may be paid for persons who received MFIP-S or medical as-

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sistance for families and children in at least three of the six months preceding the month in which the person became ineligible for MFIP-S or medical assistance, if the ineligibility was the result of the collection of child or spousal support under part D of title IV. In addition, to receive continued assistance under this section, persons who received medical assistance for families and children but did not receive MFIP-S must have had income less than or equal to the assistance standard for their family size under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193, at the time medical assistance eligibility began. A person who is eligible for extended medical assistance under this subdivision is entitled to four months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the four-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance.

Sec. 23. Minnesota Statutes 1996, section 256D.01, subdivision 1, is amended to read:

Subdivision 1. **POLICY.** The objectives of sections 256D.01 to 256D.21 are to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; to provide an integrated public assistance program for all persons eligible households in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health; and to provide services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work.

It is declared to be the policy of this state that persons eligible households unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare.

Sec. 24. Minnesota Statutes 1996, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. **STANDARDS.** (a) A principal objective in providing general assistance is to provide for persons single adults, childless couples, or children as defined in section 256D.02, subdivision 6, ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

(b) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard must also be increased by the same percentage.

(c) For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance is the amount that the aid to families with dependent children standard of assistance, in effect on July 16, 1996, would increase if the recipient were added as an additional minor child to an assistance unit consisting of

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the recipient's parent and all of that parent's family members, except that the standard may not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, may not be counted in the determination of eligibility or benefit level for the assistance unit. Except as provided below, the assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple must be used.

(d) For an assistance unit consisting of a childless couple, the standards of assistance are the same as the first and second adult standards of the aid to families with dependent children program in effect on July 16, 1996. If one member of the couple is not included in the general assistance grant, the standard of assistance for the other is the second adult standard of the aid to families with dependent children program.

(e) For an assistance unit consisting of all members of a family, the standards of assistance are the same as the standards of assistance that apply to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit and general assistance and all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members are the same as the standards of assistance that apply to an assistance unit composed of the entire family, less the standards of assistance for a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance, when combined with the standards for family members who are not in the general assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit. A child may not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit may not be counted in the determination of eligibility or benefit level for the assistance unit.

(f) An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program, except that, until June 30, 1995, in cases where a county agency has developed or approved a case plan that includes reunification with the children, foster care maintenance payments made under state or local law for a child who is temporarily absent from the assistance unit must not be considered income to the child and the payments must not be counted in the determination of the eligibility or benefit level of the assistance unit. Otherwise, the standard of assistance must be determined according to

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paragraph (e); the first \$50 of total child support received by an assistance unit in a month must be excluded and the balance counted as unearned income.

Sec. 25. Minnesota Statutes 1996, section 256D.01, subdivision 1e, is amended to read:

Subd. 1e. **RULES REGARDING EMERGENCY ASSISTANCE.** In order to maximize the use of federal funds, The commissioner shall adopt rules, to the extent permitted by federal law, for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children or MFIP-S as the primary financial resource when available. The commissioner shall adopt rules for eligibility for general assistance of persons with seasonal income and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient. General assistance payments may not be made for foster care, child welfare services, or other social services. Vendor payments and vouchers may be issued only as authorized in sections 256D.05, subdivision 6, and 256D.09.

Sec. 26. Minnesota Statutes 1996, section 256D.02, subdivision 6, is amended to read:

Subd. 6. "Child" means an adult or ~~minor~~ child, a person who qualifies for assistance under section 256D.05, subdivision 1, paragraph (a), clause (10), or until March 31, 1998, the minor child of an individual.

Sec. 27. Minnesota Statutes 1996, section 256D.02, subdivision 12a, is amended to read:

Subd. 12a. **RESIDENT.** (a) For purposes of eligibility for general assistance and general assistance medical care, a person must be a resident of this state.

(b) A "resident" is a person living in the state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner; or

(2) by verifying residence in accordance with according to Minnesota Rules, part 9500.1219, subpart 3, item C.

(b) (c) An applicant who has been in the state for less than 30 days shall be considered a resident if the applicant can provide documentation:

(1) that the applicant was born in the state;

(2) that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules adopted by the commissioner;

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(3) that the applicant has come to the state to join a close relative which, for purposes of this subdivision, means a parent, grandparent, brother, sister, spouse, or child; or

(4) that the applicant has come to this state to accept a bona fide offer of employment for which the applicant is eligible.

For general assistance medical care, a county agency shall waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance medical care. For general assistance, a county may shall waive the 30-day residency requirement in cases of emergencies, including medical emergencies, or where unusual hardship would result from denial of general assistance. For purposes of this subdivision, "unusual hardship" means the applicant is without shelter or is without available resources for food.

The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

(d) For purposes of paragraph (c), the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(e) Migrant workers as defined in section 256J.08 and, until March 31, 1998, their immediate families are exempt from the 30-day residency requirement, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

(f) For purposes of eligibility for emergency general assistance, the 30-day residency requirement in paragraph (b) shall not be waived.

(g) If any provision of this subdivision is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining provisions shall remain valid and shall be given full effect.

Sec. 28. [256D.024] PERSONS PROHIBITED FROM RECEIVING GENERAL ASSISTANCE, GENERAL ASSISTANCE MEDICAL CARE, MINNESOTA SUPPLEMENTAL AID.

Subdivision 1. PERSON CONVICTED OF DRUG OFFENSES. (a) If an applicant has been convicted of a drug offense after July 1, 1997, the assistance unit is ineligible for benefits under this chapter until five years after the applicant has completed terms of the court-ordered sentence, unless the person is participating in a drug treatment program, has successfully completed a drug treatment program, or has been assessed by the county and determined not to be in need of a drug treatment program. Persons subject to the limitations of this subdivision who become eligible for assistance under this chapter shall be subject to random drug testing as a condition of continued eligibility and shall lose eligibility for benefits for five years beginning the month following:

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(1) any positive test result for an illegal controlled substance; or (2) discharge of sentence after conviction for another drug felony.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Subd. 2. PAROLE VIOLATORS. An individual violating a condition of probation or parole or supervised release imposed under federal law or the law of any state is ineligible to receive benefits under this chapter.

Subd. 3. FLEEING FELONS. An individual who is fleeing to avoid prosecution, or custody, or confinement after conviction for a crime that is a felony under the laws of the jurisdiction from which the individual flees, or in the case of New Jersey, is a high misdemeanor, is ineligible to receive benefits under this chapter.

Subd. 4. DENIAL OF ASSISTANCE FOR TEN YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCY. An individual who is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states is ineligible to receive benefits under this chapter for ten years beginning on the date of the conviction.

Sec. 29. Minnesota Statutes 1996, section 256D.03, subdivision 3, is amended to read:

Subd. 3. GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY. (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, and:

(1) who is receiving assistance under section 256D.05, or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. No asset test shall be applied to children and their parents living in the same household. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant according to section 256B.056, subdivision 5, using a six-month budget period, except that a one-month budget period must be used for recipients residing in a long-term care facility. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1 follow section 256B.056. However, if a disregard of \$30 and one-third of

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the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children or MFIP-S for 12 consecutive months. The earned income and work expense deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except the disregard of the first \$50 of earned income is not allowed; or

(3) who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application, and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(f) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's in-

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come and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422.

(f) (g)(1) Beginning October 1, 1993, An undocumented alien noncitizen or a non-immigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This subdivision paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to an alien a noncitizen who is aged, blind, or disabled as defined in United States Code, title 42, section 1382c(a)(1) Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.

(3) For purposes of paragraph (f), "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

(4) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

Sec. 30. Minnesota Statutes 1996, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Each person or family whose assistance unit with income and resources are less than the standard of assistance established by the commissioner and with a member who is a resident of the state shall be eligible for and entitled to general assistance if the person or family assistance unit is:

(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant according to a plan developed or approved by the county agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as mentally retarded or

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mentally ill, and that condition prevents the person from obtaining or retaining employment;

(6) a person who has an application pending for, or is appealing termination of benefits from, the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided the person has a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(7) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(8) a person who has been assessed by a vocational specialist and, in consultation with the county agency, has been determined to be unemployable for purposes of this item, clause; a person is considered employable if there exist positions of employment in the local labor market, regardless of the current availability of openings for those positions, that the person is capable of performing. The person's eligibility under this category must be reassessed at least annually. The county agency must provide notice to the person not later than 30 days before annual eligibility under this item ends, informing the person of the date annual eligibility will end and the need for vocational assessment if the person wishes to continue eligibility under this clause. For purposes of establishing eligibility under this clause, it is the applicant's or recipient's duty to obtain any needed vocational assessment;

(9) a person who is determined by the county agency, in accordance with according to permanent rules adopted by the commissioner, to be learning disabled, provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but and only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than that the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) until March 31, 1998, a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person who is eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

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(13) a person who lives more than ~~two~~ four hours round-trip traveling time from any potential suitable employment;

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(15)(i) until March 31, 1998, a family as defined in section 256D.02, subdivision 5, which is ineligible for the aid to families with dependent children program.

(ii) unless exempt under section 256D.051, subdivision 3a, each adult in the unit must participate in and cooperate with the food stamp employment and training program under section 256D.051 each month that the unit receives general assistance benefits. The recipient's participation must begin no later than the first day of the first full month following the determination of eligibility for general assistance benefits. To the extent of available resources, and with the county agency's consent, the recipient may voluntarily continue to participate in food stamp employment and training services for up to three additional consecutive months immediately following termination of general assistance benefits in order to complete the provisions of the recipient's employability development plan. If an adult member fails without good cause to participate in or cooperate with the food stamp employment and training program, the county agency shall concurrently terminate that person's eligibility for general assistance and food stamps for ~~two months or until compliance is achieved, whichever is shorter,~~ using the notice, good cause, conciliation and termination procedures specified in section 256D.051; or

(16) a person over age 18 whose primary language is not English and who is attending high school at least half time;

(17) a person whose alcohol and drug addiction is a material factor that contributes to the person's disability; applicants who assert this clause as a basis for eligibility must be assessed by the county agency to determine if they are amenable to treatment; if the applicant is determined to be not amenable to treatment, but is otherwise eligible for benefits, then general assistance must be paid in vendor form, up to the limit of the individual's shelter costs; if the applicant is determined to be amenable to treatment, then in order to receive benefits, the applicant must be in a treatment program or on a waiting list and the benefits must be paid in vendor form, up to the limit of the individual's shelter costs.

~~(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.~~

(e) As a condition of eligibility under paragraph (a), clauses (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

~~(d)~~ (c) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or for exemption from the food stamp employment and training program is upon the applicant or recipient. The county agency shall use documents already in its possession to verify eligibility, and shall help the applicant or recipient obtain other existing verification necessary to determine eligibility which the applicant or recipient does not have and is unable to obtain.

Sec. 31. Minnesota Statutes 1996, section 256D.05, subdivision 2, is amended to read:

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Subd. 2. **USE OF FEDERAL FUNDS.** Effective March 31, 1998, notwithstanding any law to the contrary, if any person a single adult or childless couple otherwise eligible for general assistance would, but for state statutory restriction or limitation, be eligible for a funded federally aided assistance program providing benefits equal to or greater than those of general assistance, the person single adult or childless couple shall be eligible for that federally aided program and ineligible for general assistance; provided, however, that (a) nothing in this section shall be construed to extend eligibility for federally aided programs to persons not otherwise eligible for general assistance; (b) this section shall not be effective to the extent that federal law or regulation require new eligibility for federal programs to persons not otherwise eligible for general assistance; and (c) nothing in this section shall deny general assistance to a person otherwise eligible who is determined ineligible for a substitute federally aided program.

Sec. 32. Minnesota Statutes 1996, section 256D.05, subdivision 5, is amended to read:

Subd. 5. **TRANSFERS OF PROPERTY.** The equity value of real and personal property transferred without reasonable compensation within 12 months preceding the date of application for general assistance must be included in determining the resources of an assistance unit in the same manner as in the aid to families with dependent children program under chapter 256 or MFIP-S under chapter 256J.

Sec. 33. Minnesota Statutes 1996, section 256D.05, subdivision 7, is amended to read:

Subd. 7. **INELIGIBILITY FOR GENERAL ASSISTANCE.** No person single adult or childless couple shall be eligible for general assistance during a period of disqualification because of sanctions, from any federally aided assistance program; or if the person could be considered an essential person under section 256.74, subdivision 1.

Sec. 34. Minnesota Statutes 1996, section 256D.05, subdivision 8, is amended to read:

Subd. 8. **PERSONS INELIGIBLE CITIZENSHIP.** (a) Beginning October 1, 1993, an undocumented alien or a nonimmigrant is ineligible for general assistance benefits. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(b) This subdivision does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to an alien who is aged, blind, or disabled as defined in United States Code, title 42, section 1382e(a)(1). (a) Effective July 1, 1997, citizenship requirements for applicants and recipients under sections 256D.01 to 256D.03, subdivision 2, and 256D.04 to 256D.21 shall be determined the same as under section 256J.11, except that legal noncitizens who are applicants or recipients must have been residents of Minnesota on March 1, 1997. Legal noncitizens who arrive in Minnesota after March 1, 1997, and become elderly or disabled after that date, and are otherwise eligible for general assistance can receive benefits under this section. The income and assets of sponsors of noncitizens shall be deemed available to general assistance applicants and recipients according to the Personal Responsibility

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and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, Title IV, sections 421 and 422.

(b) As a condition of eligibility, each legal adult noncitizen in the assistance unit who has resided in the country for four years or more and who is under 70 years of age must:

(1) be enrolled in a literacy class, English as a second language class, or a citizen class;

(2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;

(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United States citizen, as documented by the Immigration and Naturalization Service or the county.

Sec. 35. Minnesota Statutes 1996, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. NOTICES; CONCILIATION CONFERENCE; AND SANCTIONS.

(a) At the time the county agency notifies the household that it is eligible for food stamps, the county agency must inform all mandatory employment and training services participants as identified in subdivision 1 in the household that they must comply with all food stamp employment and training program requirements each month, including the requirement to attend an initial orientation to the food stamp employment and training program and that food stamp eligibility will end unless the participants comply with the requirements specified in the notice.

(b) A participant who fails without good cause to comply with food stamp employment and training program requirements of this section, including attendance at orientation, will lose food stamp eligibility for ~~two months~~ or until the county agency determines that the participant has complied with the program requirements, whichever is shorter. the following periods:

(1) for the first occurrence, for one month or until the person complies with the requirements not previously complied with, whichever is longer;

(2) for the second occurrence, for three months or until the person complies with the requirements not previously complied with, whichever is longer; or

(3) for the third and any subsequent occurrence, for six months or until the person complies with the requirements not previously complied with, whichever is longer.

If the participant is not the food stamp head of household, the person shall be considered an ineligible household member for food stamp purposes. If the participant is the food stamp head of household, the entire household is ineligible for food stamps as pro-

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vided in Code of Federal Regulations, title 7, section 273.7(g). "Good cause" means circumstances beyond the control of the participant, such as illness or injury, illness or injury of another household member requiring the participant's presence, a household emergency, or the inability to obtain child care for children between the ages of six and 12 or to obtain transportation needed in order for the participant to meet the food stamp employment and training program participation requirements.

(c) The county agency shall mail or hand deliver a notice to the participant not later than five days after determining that the participant has failed without good cause to comply with food stamp employment and training program requirements which specifies the requirements that were not complied with, the factual basis for the determination of non-compliance, and the right to reinstate eligibility upon a showing of good cause or the for failure to meet the requirements. The notice must ask the reason for the noncompliance, and must identify the participant's appeal rights. The notice must request that the participant inform the county agency if the participant believes that good cause existed for the failure to comply, must offer the participant a conciliation conference as provided in paragraph (d), and must state that the county agency intends to terminate eligibility for food stamp benefits due to failure to comply with food stamp employment and training program requirements.

(d) ~~The county agency must offer a conciliation conference to participants who have failed to comply with food stamp employment and training program requirements. The purpose of the conference is to determine the cause for noncompliance, to attempt to resolve the problem causing the noncompliance so that all requirements are complied with, and to determine if good cause for noncompliance was present. The conciliation period shall run for ten working days from the date of the notice required in paragraph (c). Information about how to request a conciliation conference must be specified in the notice required in paragraph (c). If the county agency determines that the participant, during the conciliation period, complied with all food stamp employment and training program requirements that the recipient was required to comply with prior to and during the conciliation period, or if the county agency determines that good cause for failing to comply with the requirements was present, a sanction on the participant's or household's food stamp eligibility shall not be imposed.~~

(e) If the county agency determines that the participant did not comply during the ~~conciliation period~~ month with all food stamp employment and training program requirements that were in effect prior to and during the conciliation period, and if the county agency determines that good cause was not present, the county must provide a ten-day notice of termination of food stamp benefits. ~~The termination notice must be issued following the last day of the conciliation period.~~ The amount of food stamps that are withheld from the household and determination of the impact of the sanction on other household members is governed by Code of Federal Regulations, title 7, section 273.7.

(f) (e) The participant may appeal the termination of food stamp benefits under the provisions of section 256.045.

Sec. 36. Minnesota Statutes 1996, section 256D.051, subdivision 2a, is amended to read:

Subd. 2a. **DUTIES OF COMMISSIONER.** In addition to any other duties imposed by law, the commissioner shall:

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(1) based on this section and section 256D.052 and Code of Federal Regulations, title 7, section 273.7, supervise the administration of food stamp employment and training services to county agencies;

(2) disburse money appropriated for food stamp employment and training services to county agencies based upon the county's costs as specified in section 256D.06;

(3) accept and supervise the disbursement of any funds that may be provided by the federal government or from other sources for use in this state for food stamp employment and training services; and

(4) cooperate with other agencies including any agency of the United States or of another state in all matters concerning the powers and duties of the commissioner under this section and section 256D.052; and

(5) in cooperation with the commissioner of economic security, ensure that each component of an employment and training program carried out under this section is delivered through a statewide workforce development system, unless the component is not available locally through such a system.

Sec. 37. Minnesota Statutes 1996, section 256D.051, subdivision 3a, is amended to read:

Subd. 3a. **PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.** (a) To the extent required under Code of Federal Regulations, title 7, section 273.7(a), each applicant for and recipient of food stamps is required to register for work as a condition of eligibility for food stamp benefits. Applicants and recipients are registered by signing an application or annual reapplication for food stamps, and must be informed that they are registering for work by signing the form.

(b) The commissioner shall determine, within federal requirements, persons required to participate in the food stamp employment and training (FSET) program.

(c) The following food stamp recipients are exempt from mandatory participation in food stamp employment and training services:

(1) recipients of benefits under the AFDC program, the MFIP-S, MFIP, and MFIP-R programs, Minnesota supplemental aid program, or the general assistance program, ~~except that an adult who receives general assistance under section 256D.05, subdivision 1, paragraph (b), is not exempt unless that person qualifies under one of the remaining exemption provisions in this paragraph;~~

(2) a child;

(3) a recipient over age 55;

(4) a recipient who has a mental or physical illness, injury, or incapacity which is expected to continue for at least 30 days and which impairs the recipient's ability to obtain or retain employment as evidenced by professional certification or the receipt of temporary or permanent disability benefits issued by a private or government source;

(5) a parent or other household member responsible for the care of either a dependent child in the household who is under age six or a person in the household who is profes-

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sionally certified as having a physical or mental illness, injury, or incapacity. Only one parent or other household member may claim exemption under this provision;

(6) a recipient receiving unemployment compensation or who has applied for unemployment compensation and has been required to register for work with the department of economic security as part of the unemployment compensation application process;

(7) a recipient participating each week in a drug addiction or alcohol abuse treatment and rehabilitation program, provided the operators of the treatment and rehabilitation program, in consultation with the county agency, recommend that the recipient not participate in the food stamp employment and training program;

(8) a recipient employed or self-employed for 30 or more hours per week at employment paying at least minimum wage, or who earns wages from employment equal to or exceeding 30 hours multiplied by the federal minimum wage; or

(9) a student enrolled at least half time in any school, training program, or institution of higher education. When determining if a student meets this criteria, the school's, program's or institution's criteria for being enrolled half time shall be used.

Sec. 38. Minnesota Statutes 1996, section 256D.051, is amended by adding a subdivision to read:

Subd. 18. WORK EXPERIENCE PLACEMENTS. (a) To the extent of available resources, each county agency must establish and operate a work experience component in the food stamp employment and training program for recipients who are subject to a federal limit of three months of food stamp eligibility in any 36-month period. The purpose of the work experience component is to enhance the participant's employability, self-sufficiency, and to provide meaningful, productive work activities.

(b) The commissioner shall assist counties in the design and implementation of these components. The commissioner must ensure that job placements under a work experience component comply with section 256J.72. Written or oral concurrence with job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative.

(c) Worksites developed under this section are limited to projects that serve a useful public service such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to aged or disabled citizens, and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.

(d) Structured, supervised volunteer work with an agency or organization that is monitored by the county service provider may, with the approval of the county agency, be used as a work experience placement.

(e) As a condition of placing a person receiving food stamps in a program under this subdivision, the county agency shall first provide the recipient the opportunity:

(1) for placement in suitable subsidized or unsubsidized employment through participation in job search under section 256D.051; or

(2) for placement in suitable employment through participation in on-the-job training, if such employment is available.

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(f) The county agency shall limit the maximum monthly number of hours that any participant may work in a work experience placement to a number equal to the amount of the family's monthly food stamp allotment divided by the greater of the federal minimum wage or the applicable state minimum wage.

After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the food stamp benefit divided by the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(g) The participant's employability development plan must include the length of time needed in the work experience program, the need to continue job seeking activities while participating in work experience, and the participant's employment goals.

(h) After each six months of a recipient's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the participant's employability development plan.

(i) A participant has good cause for failure to cooperate with a work experience job placement if, in the judgment of the employment and training service provider, the reason for failure is reasonable and justified. Good cause for purposes of this section is defined in subdivision 1a, paragraph (b).

(j) A recipient who has failed without good cause to participate in or comply with the work experience job placement shall be terminated from participation in work experience job activities. If the recipient is not exempt from mandatory food stamp employment and training program participation under subdivision 3a, the recipient will be assigned to other mandatory program activities. If the recipient is exempt from mandatory participation but is participating as a volunteer, the person shall be terminated from the food stamp employment and training program.

Sec. 39. [256D.0512] FEDERAL WAIVER.

The commissioner shall exercise the authority granted by Public Law Number 104-193, Title VIII, section 824, and request the secretary of the United States Department of Agriculture to grant waivers of the federal food stamp work requirements of section 824, for every county and reservation in which:

- (1) the county or reservation has an unemployment rate over ten percent; or
- (2) the county or reservation does not have a sufficient number of jobs to provide employment for individuals.

Sec. 40. [256D.0513] BUDGETING LUMP SUMS.

Effective January 1, 1998, nonrecurring lump-sum income received by a recipient of general assistance must be budgeted in the normal retrospective cycle.

Sec. 41. Minnesota Statutes 1996, section 256D.055, is amended to read:

256D.055 COUNTY DESIGN; WORK FOCUSED PROGRAM.

The commissioner of human services shall issue a request for proposals from counties to submit a plan for developing and implementing a county-designed program. The

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plan shall be for first-time applicants for aid to families with dependent children (AFDC) and family general assistance (FGA) Minnesota family investment program—statewide (MFIP—S) and, until March 31, 1998, aid to families with dependent children and family general assistance and must emphasize the importance of becoming employed and oriented into the work force in order to become self-sufficient. The plan must target public assistance applicants who are most likely to become self-sufficient quickly with short-term assistance or services such as child care, child support enforcement, or employment and training services.

The plan may include vendor payments, mandatory job search, refocusing existing county or provider efforts, or other program features. The commissioner may approve a county plan which allows a county to use other program funding for the county work focus program in a more flexible manner. Nothing in this section shall allow payments made to the public assistance applicant to be less than the amount the applicant would have received if the program had not been implemented, or reduce or eliminate a category of eligible participants from the program without legislative approval.

The commissioner shall not approve a county plan that would have an adverse impact on the Minnesota family investment plan demonstration. If the plan is approved by the commissioner, the county may implement the plan. If the plan is approved by the commissioner, but a federal waiver is necessary to implement the plan, the commissioner shall apply for the necessary federal waivers.

Sec. 42. [256D.057] SUPPLEMENT FOR CERTAIN NONCITIZENS.

(a) For the period from July 1, 1997, to June 30, 1998, for an assistance unit that contains an adult or a minor legal noncitizen who was residing in this state as of July 1, 1997, and lost eligibility for the federal food stamp and Supplemental Security Income programs under the provisions of title IV of Public Law Number 104-193, the standard is \$87 for each legal noncitizen under this section. To be eligible for benefits under this section, each legal adult noncitizen in the assistance unit who has resided in the country for four years or more and is under 70 years of age must:

(1) be enrolled in a literacy class, English as a second language class, or a citizenship class;

(2) be applying for admission to a literacy class, English as a second language class, or a citizenship class, and is enrolled within 60 days of receiving the increased grant amount under this paragraph;

(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirement of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or due to a denial of the application for naturalization because of an inability to understand the rights and responsibilities of becoming a citizen.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal nonciti-

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zen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this section.

(b) The assistance provided under this section, which is designated as a supplement to replace lost benefits under the food stamp program, must be disregarded as income in federal and state housing subsidy programs, low-income home energy assistance programs, and other programs that do not count food stamps as income.

Sec. 43. Minnesota Statutes 1996, section 256D.06, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of subdivision 1, a grant of general assistance shall be made to an eligible individual, single adult, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and (a) until March 31, 1998, the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application hereunder; or (b) the individual or family is (i) ineligible for MFIP-S or is not a participant of MFIP-S; and (ii) is ineligible for emergency assistance under section 256J.48. If an applicant or recipient relates facts to the county agency which may be sufficient to constitute an emergency situation, the county agency shall advise the person of the procedure for applying for assistance pursuant according to this subdivision.

Sec. 44. **[256D.066] INTERSTATE PAYMENT STANDARDS.**

(a) Effective July 1, 1997, the amount of assistance paid to an eligible assistance unit in which all members have resided in this state for less than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the payment standard that would have been received by the assistance unit from the state of immediate prior residence, or the amount calculated in accordance with this chapter. The lesser payment shall continue until the assistance unit meets the 12-month requirement. Payment shall be calculated by applying this state's budgeting policies and the unit's net income shall be deducted from the payment standard in the other state or in this state, whichever is lower. At county option, payment shall be made in vendor form for rent and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months an assistance unit resides in this state, the number of months that the unit is eligible to receive general assistance benefits is limited to the number of months the unit would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the unit received similar benefits while residing in the state of previous residence.

(d) When a unit moves to this state from another state where the unit has exhausted that state's time limit for receiving similar benefits, the unit will not be eligible to receive any general assistance benefits in this state for 12 months from the date the unit moves here.

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(e) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(f) For the purposes of this subdivision, "state of immediate prior residence" means:

(i) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(ii) the applicant is in the migrant work stream and the applicant maintains a home in another state.

(g) Migrant workers as defined in section 256J.08 and until March 31, 1998, their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Sec. 45. Minnesota Statutes 1996, section 256D.08, subdivision 1, is amended to read:

Subdivision 1. In determining eligibility of a family, married couple, or individual there shall be excluded an assistance unit, the following resources shall be excluded:

(1) real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to families with dependent children \$1,000; and

(2) other property which has been determined, in accordance with and subject according to limitations contained in rules promulgated by the commissioner, to be essential to the family or individual the assistance unit as a means of self-support or self-care or which is producing income that is being used for the support of the individual or family assistance unit. The commissioner shall further provide by rule the conditions for those situations in which property not excluded under this subdivision may be retained by the family or individual assistance unit where there is a reasonable probability that in the foreseeable future the property will be used for the self-support of the individual or family assistance unit; and

(3) payments, made pursuant according to litigation and subsequent appropriation by the United States Congress, of funds to compensate members of Indian tribes for the taking of tribal land by the federal government.

Sec. 46. Minnesota Statutes 1996, section 256D.08, subdivision 2, is amended to read:

Subd. 2. Notwithstanding any other provision of sections 256D.01 to 256D.21, the commissioner shall provide by rule for the exclusion of property from the determination of eligibility for general assistance when it appears likely that the need for general assistance will not exceed 30 days or an undue hardship would be imposed on an individual or family an assistance unit by the forced disposal of the property.

Sec. 47. Minnesota Statutes 1996, section 256D.09, is amended by adding a subdivision to read:

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Subd. 2b. **DISABILITY VERIFICATION; DRUG OR ALCOHOL DEPENDENCY.** If at any time there is verification that the client's disability is dependent upon the client's continued drug addiction or alcoholism, general assistance for rent and utilities must be made in the form of vendor payments.

Verification of drug addiction or alcoholism can be received from:

- (1) denial of social security benefits based on drug addiction or alcoholism;
- (2) a statement from the state medical review team that the person's disability is dependent upon continued drug addiction or alcoholism; or
- (3) a doctor's statement that the person's disability is dependent upon continued drug addiction or alcoholism.

Sec. 48. Minnesota Statutes 1996, section 256D.435, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FOR FEDERALLY FUNDED BENEFITS.** Persons who live with the applicant or recipient, who have unmet needs and for whom the applicant or recipient has financial responsibility, must apply for and, if eligible, accept AFDC and any other federally funded benefits, including MFIP-S.

Sec. 49. Minnesota Statutes 1996, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **SPECIAL NEEDS.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility:

(a) The county agency shall pay a monthly allowance for medically prescribed diets payable under the AFDC program or the Minnesota family investment program—state-wide if the cost of those additional dietary needs cannot be met through some other maintenance benefit.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the require-

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ments under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

Sec. 50. Minnesota Statutes 1996, section 256G.03, subdivision 2, is amended to read:

Subd. 2. **NO DURATIONAL TEST.** Except as otherwise provided in sections 256.73, subdivisions 1 and 1b; 256B.056, subdivision 1; and 256D.02, subdivision 12a, and 256J.12 for purposes of this chapter, no waiting period is required before securing county or state residence. A person cannot, however, gain residence while physically present in an excluded time facility unless otherwise specified in this chapter or in a federal regulation controlling a federally funded human service program. Interstate migrants who enter a shelter for battered women directly from another state can gain residency while in the facility provided the person can provide documentation that the person is a victim of domestic abuse as defined in section 256J.49, subdivision 2, and the county determines that the placement is appropriate; and the commissioner of human services is authorized to make per diem payments under section 256D.05, subdivision 3, on behalf of such individuals.

Sec. 51. Minnesota Statutes 1996, section 256G.05, subdivision 2, is amended to read:

Subd. 2. **NON-MINNESOTA RESIDENTS.** State residence is not required for receiving emergency assistance in the ~~general assistance~~, general assistance medical care, and Minnesota supplemental aid programs only. The receipt of emergency assistance must not be used as a factor in determining county or state residence.

Sec. 52. Minnesota Statutes 1996, section 259.67, subdivision 4, is amended to read:

Subd. 4. **ELIGIBILITY CONDITIONS.** (a) The placing agency shall determine use the AFDC requirements as specified in federal law, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; or

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.

(3) The child has been a ward of the commissioner or a Minnesota-licensed child-placing agency.

(b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

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(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 53. **TRANSFER OF RESPONSIBILITIES FOR PROVIDING SECURE CRISIS SHELTER.**

In state fiscal year 2000, all of the powers, duties, and functions of the commissioner of human services relating to the operation and funding of shelters for battered women are transferred to the commissioner of corrections in accordance with Minnesota Statutes, section 15.039, except for personnel transfers under Minnesota Statutes, section 15.039, subdivision 7.

Sec. 54. **FINDINGS; CONTINGENT BENEFIT STANDARDS.**

Subdivision 1. **FINDINGS.** For purposes of Minnesota Statutes, sections 256D.02, subdivision 12a, and 256D.066, the legislature makes the following findings:

(1) the legislature is statutorily required to balance the state budget, and, in balancing the state budget, faces competing funding priorities with limited resources;

(2) many states have more restrictive or nonexistent state welfare programs to aid needy individuals without children;

(3) despite likely weaker federal financial support and the trend in other states toward more restrictive welfare programs, the legislature wishes to continue to manage funds appropriated for the general assistance program so that the state may provide meaningful assistance for needy Minnesotans without children;

(4) the legislature intends to provide a safety net for recent interstate migrants;

(5) Minnesota county human service agencies have reported to the commissioner of human services verified cases of individuals from other states to this state at least in part because this state has higher cash assistance benefits;

(6) the legislature anticipates that, as other states further restrict their welfare programs, migration to this state by individuals seeking higher welfare benefits will increase significantly and may cause expenditures in excess of the funds appropriated for this program;

(7) the policy of the state of Minnesota is to make welfare benefits a neutral factor in an individual's decision to move to Minnesota, which is required for the state to continue its commitment to provide meaningful assistance for needy Minnesotans without children;

(8) if new residents experience any harm under Minnesota Statutes, sections 256D.02, subdivision 12a, and 256D.066, such harm is mitigated, since new residents, if eligible, can receive benefits immediately under a hardship exemption; and in all cases, if

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eligible, can receive cash assistance after 30 days; if eligible, they will receive cash assistance based on the assistance standard they would have received in their previous state of residence for individuals without children;

(9) without Minnesota Statutes, sections 256D.02, subdivision 12a, and 256D.066, the hardship to the state and its needy individuals would be great because significant reductions in welfare benefits will likely occur; and

(10) Minnesota Statutes, sections 256D.02, subdivision 12a, and 256D.066, advance the public interest of continuing to provide meaningful assistance to needy Minnesotans without children while providing a safety net for recent interstate migrants.

Subd. 2. REDUCTION IF COURT ENJOINMENT. In the event a court enjoins enforcement of Minnesota Statutes, section 256D.02, subdivision 12a, or 256D.066, this subdivision shall apply. Beginning July 1, 1997, the commissioner of human services shall monitor the number of individual applicants for general assistance under this chapter who have lived in this state for less than 12 consecutive months and shall implement clauses (1) to (3) when the commissioner determines that the cumulative number of such applicants since July 1, 1997, has reached at least 3,000. The commissioner shall:

(1) reduce the assistance standards for general assistance program under this chapter for all recipients but only in an amount sufficient to remain within the forecasted budgets for the program; reductions shall take effect beginning with payments made at the start of the second calendar month following the commissioner's determination that the conditions specified in this clause have occurred;

(2) notify the fiscal and policy chairs of the house and senate human services committees that the reductions have taken place; and

(3) formulate a plan to be presented to the next legislative session.

Sec. 55. TOTAL HOUSEHOLD INCOME COUNTED.

Effective January 1, 1999, notwithstanding any provision of law to the contrary, eligibility for public assistance, including, but not limited to, AFDC, family general assistance, MFIP and MFIP-S, and general assistance must count income from all unrelated individuals living in the household in order to qualify for any of these public assistance programs.

Sec. 56. REPEALER.

(a) Minnesota Statutes 1996, sections 256.8711; and 256D.065, are repealed July 1, 1997.

(b) Minnesota Statutes 1996, sections 256D.02, subdivision 5; and 256D.0511, are repealed March 31, 1998.

Sec. 57. EFFECTIVE DATES.

Section 20 is effective the day following final enactment. Sections 33 and 45 are effective March 31, 1998. The remaining sections in this article are effective July 1, 1997, unless specified otherwise in the section.

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ARTICLE 4

TECHNICAL CHANGES; CROSS REFERENCES

Section 1. Minnesota Statutes 1996, section 13.46, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section:

(a) "Individual" means an individual ~~pursuant~~ according to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system ~~pursuant~~ according to statute or federal law, including, but not limited to, aid to families with dependent children, Minnesota family investment program—state-wide, medical assistance, general assistance, ~~work readiness~~, general assistance medical care, and child support collections.

(c) "Welfare system" includes the department of human services, local social services agencies, county welfare agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and mental retardation.

(e) "Fugitive felon" means a person who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

Sec. 2. Minnesota Statutes 1996, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) ~~pursuant~~ according to section 13.05;

(2) ~~pursuant~~ according to court order;

(3) ~~pursuant~~ according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

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- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;
- (9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;
- (11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;
- (12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;
- (13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);
- (14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;
- (15) the current address of a recipient of aid to families with dependent children or Minnesota family investment program—statewide may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties;
- (16) the current address of a recipient of general assistance, ~~work readiness,~~ or general assistance medical care may be disclosed to probation officers and corrections agents

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who are supervising the recipient, and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, ~~in accordance with~~ according to Code of Federal Regulations, title 7, section 272.1(c);

(18) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data ~~pursuant~~ according to section 518.575;

(19) data on child support payments made by a child support obligor may be disclosed to the obligee;

(20) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(21) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk ~~pursuant~~ according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children or Minnesota family investment program—statewide as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; or

(22) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed ~~in accordance with~~ according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), or (17), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 3. Minnesota Statutes 1996, section 84.98, subdivision 3, is amended to read:

Subd. 3. **CRITERIA FOR DETERMINING ECONOMIC, SOCIAL, PHYSICAL, OR EDUCATIONAL DISADVANTAGE.** (a) The criteria for determining economic, social, physical, or educational disadvantage shall be determined as provided in this subdivision.

(b) Economically disadvantaged are persons who meet the criteria for disadvantaged established by the department of economic security or persons receiving services provided by the department of human services such as welfare payments, food stamps,

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and aid to families with dependent children or Minnesota family investment program—statewide.

(c) Socially disadvantaged are persons who have been classified as persons in need of supervision by the court system.

(d) Physically disadvantaged are persons who have been identified as having special needs by public agencies that deal with employment for the disabled.

(e) Educationally disadvantaged are persons who have dropped out of school or are at risk of dropping out of school and persons with learning disabilities or in need of special education classes.

Sec. 4. Minnesota Statutes 1996, section 136A.125, subdivision 2, is amended to read:

Subd. 2. **ELIGIBLE STUDENTS.** An applicant is eligible for a child care grant if the applicant:

(1) is a resident of the state of Minnesota;

(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 120.03, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;

(3) is income eligible as determined by the office's policies and rules, but is not a recipient of assistance from either aid to families with dependent children or Minnesota family investment program—statewide;

(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters, 12 quarters, or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; and

(7) is in good academic standing and making satisfactory academic progress.

Sec. 5. Minnesota Statutes 1996, section 196.27, is amended to read:

196.27 AGENT ORANGE SETTLEMENT PAYMENTS.

(a) Payments received by veterans or their dependents because of settlements between them and the manufacturers of Agent Orange or other chemical agents, as defined in section 196.21, must not be treated as income (or an available resource) of the veterans or their dependents for the purposes of any program of public assistance or benefit program administered by the department of veterans affairs, the department of human services, or other agencies of the state or political subdivisions of the state, except as provided in paragraph (b).

(b) The income and resource exclusion in paragraph (a) does not apply to the medical assistance, food stamps, or aid to families with dependent children or Minnesota family investment program—statewide programs until the commissioner of human services receives formal approval from the United States Department of Health and Human Services, for the medical assistance and, aid to families with dependent children or Minneso-

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ta family investment program—statewide programs, and from the United States Department of Agriculture, for the food stamps program. The income exclusion does not apply to the Minnesota supplemental aid program until the commissioner receives formal federal approval of the exclusion for the medical assistance program.

Sec. 6. Minnesota Statutes 1996, section 237.70, subdivision 4a, is amended to read:

Subd. 4a. **HOUSEHOLDS ELIGIBLE FOR CREDITS.** The telephone assistance plan must provide telephone assistance credit for a residential household in Minnesota that meets each of the following criteria:

- (1) has a household member who:
 - (i) subscribes to local exchange service; and
 - (ii) is either disabled or 65 years of age or older;
- (2) whose household income is 150 percent or less of federal poverty guidelines or is currently eligible for:
 - (i) aid to families with dependent children or Minnesota family investment program—statewide;
 - (ii) medical assistance;
 - (iii) general assistance;
 - (iv) Minnesota supplemental aid;
 - (v) food stamps;
 - (vi) refugee cash assistance or refugee medical assistance;
 - (vii) energy assistance; or
 - (viii) supplemental security income; and
- (3) who has been certified as eligible for telephone assistance plan credits.

Sec. 7. Minnesota Statutes 1996, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. **CHEMICAL DEPENDENCY TREATMENT ALLOCATION.** The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

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(a) For purposes of this formula, American Indians and children under age 14 are subtracted from the population of each county to determine the restricted population.

(b) The amount of chemical dependency fund expenditures for entitled persons for services not covered by prepaid plans governed by section 256B.69 in the previous year is divided by the amount of chemical dependency fund expenditures for entitled persons for all services to determine the proportion of exempt service expenditures for each county.

(c) The prepaid plan months of eligibility is multiplied by the proportion of exempt service expenditures to determine the adjusted prepaid plan months of eligibility for each county.

(d) The adjusted prepaid plan months of eligibility is added to the number of restricted population fee for service months of eligibility for aid to families with dependent children, Minnesota family investment program—statewide, general assistance, and medical assistance and divided by the county restricted population to determine county per capita months of covered service eligibility.

(e) The number of adjusted prepaid plan months of eligibility for the state is added to the number of fee for service months of eligibility for aid to families with dependent children, Minnesota family investment program—statewide, general assistance, and medical assistance for the state restricted population and divided by the state restricted population to determine state per capita months of covered service eligibility.

(f) The county per capita months of covered service eligibility is divided by the state per capita months of covered service eligibility to determine the county welfare caseload factor.

(g) The median married couple income for the most recent three-year period available for the state is divided by the median married couple income for the same period for each county to determine the income factor for each county.

(h) The county restricted population is multiplied by the sum of the county welfare caseload factor and the county income factor to determine the adjusted population.

(i) \$15,000 shall be allocated to each county.

(j) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 8. Minnesota Statutes 1996, section 256.01, subdivision 4a, is amended to read:

Subd. 4a. **TECHNICAL ASSISTANCE FOR IMMUNIZATION REMINDERS.** The state agency shall provide appropriate technical assistance to county agencies to develop methods to have county financial workers remind and encourage recipients of aid to families with dependent children, Minnesota family investment program—statewide, the Minnesota family investment plan, medical assistance, family general assistance, or food stamps whose assistance unit includes at least one child under the age of five to have each young child immunized against childhood diseases. The state agency must examine the feasibility of utilizing the capacity of a statewide computer system to assist county agency financial workers in performing this function at appropriate intervals.

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Sec. 9. Minnesota Statutes 1996, section 256.017, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY AND PURPOSE.** The commissioner shall administer a compliance system for aid to families with dependent children, Minnesota family investment program—statewide, the food stamp program, emergency assistance, ~~general assistance, work readiness,~~ medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental assistance, preadmission screening, and alternative care grants under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanctions and fiscal disallowances for noncompliance with federal regulations and state statutes.

The commissioner shall utilize training, technical assistance, and monitoring activities, as specified in section 256.01, subdivision 2, to encourage county agency compliance with written policies and procedures.

Sec. 10. Minnesota Statutes 1996, section 256.017, subdivision 4, is amended to read:

Subd. 4. **DETERMINING THE AMOUNT OF THE QUALITY CONTROL CASE PENALTY.** (a) The amount of the quality control case penalty is limited to the amount of the dollar error for the quality control sample month in a reviewed case as determined by the state quality control review procedures for the aid to families with dependent children, Minnesota family investment program—statewide and food stamp programs or for any other income transfer program for which the commissioner develops a quality control program.

(b) Payment errors in medical assistance or any other medical services program for which the department develops a quality control program are subject to set rate penalties based on the average cost of the specific quality control error element for a sample review month for that household size and status of institutionalization and as determined from state quality control data in the preceding fiscal year for the corresponding program.

(c) Errors identified in negative action cases, such as incorrect terminations or denials of assistance are subject to set rate penalties based on the average benefit cost of that household size as determined from state quality control data in the preceding fiscal year for the corresponding program.

Sec. 11. Minnesota Statutes 1996, section 256.031, subdivision 5, is amended to read:

Subd. 5. **FEDERAL WAIVERS.** ~~In accordance with~~ According to sections 256.031 to 256.0361 and federal laws authorizing the program, the commissioner shall seek waivers of federal requirements of: United States Code, title 42, section 601 et seq., and United States Code, title 7, section 2011 et seq., needed to implement the Minnesota family investment plan in a manner consistent with the goals and objectives of the program. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also

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seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon 180 days' notice or immediately upon mutual agreement. If the agreement is canceled, families which cease receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, Minnesota family investment program—statewide, general assistance, medical assistance, general assistance medical care, or the food stamp program must be placed with their consent on the programs for which they are eligible.

Sec. 12. Minnesota Statutes 1996, section 256.046, subdivision 1, is amended to read:

Subdivision 1. **HEARING AUTHORITY.** A local agency may initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations in the aid to families with dependent children, Minnesota family investment program—statewide or food stamp programs. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, for the aid to families with dependent children program.

Sec. 13. Minnesota Statutes 1996, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children or MFIP-S, the county agency shall pay an amount for funeral expenses not exceeding the amount paid for comparable services under section 261.035 plus actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3—805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share of county agency expenditures shall be 50 percent and the county share shall be 50 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures

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made under this subdivision from January 1, 1991, on. Payment under this subdivision is subject to the provisions of section 256.017.

Sec. 14. Minnesota Statutes 1996, section 256.981, is amended to read:

256.981 TRAINING OF WELFARE FRAUD PROSECUTORS.

The commissioner of human services shall, to the extent an appropriation is provided for this purpose, contract with the county attorney's council or other public or private entity experienced in providing training for prosecutors to conduct quarterly workshops and seminars focusing on current aid to families with dependent children and Minnesota family investment program—statewide program issues, other income maintenance program changes, recovery issues, alternative sentencing methods, use of technical aids for interviews and interrogations, and other matters affecting prosecution of welfare fraud cases.

Sec. 15. Minnesota Statutes 1996, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1, to the following groups of persons:

(1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

(2) persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(3) adults who are in need of protection and vulnerable as defined in section 626.5572;

(4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(5) emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

(6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1a, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(7) drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

(9) other groups of persons who, in the judgment of the county board, are in need of social services.

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(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as aid to families with dependent children, Minnesota family investment program—statewide, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 16. Minnesota Statutes 1996, section 256E.06, subdivision 1, is amended to read:

Subdivision 1. **FORMULA.** The commissioner of human services shall distribute community social service aids to each county board in an amount determined according to the following formula:

In calendar year 1982 and thereafter:

(a) One-third shall be distributed on the basis of the average unduplicated number of persons who receive AFDC, Minnesota family investment program—statewide, general assistance, and medical assistance per month in the calendar year two years prior to the year for which funds are being distributed as reported in the average monthly caseload reports required under sections 256.01, 256B.04 and 256D.04, and certified by the commissioner of human services; and

(b) One-third shall be distributed on the basis of the number of persons residing in the county as determined by the most recent data of the state demographer;

(c) One-third shall be distributed on the basis of the number of persons residing in the county who are 65 years old or older as determined by the most recent data of the state demographer.

Sec. 17. Minnesota Statutes 1996, section 256E.06, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS TO COUNTIES.** The commissioner of human services shall make payments for community social services to each county in four installments per year. The commissioner of human services may certify the payments for the first three months of a calendar year based on estimates of the unduplicated number of persons receiving AFDC, Minnesota family investment program—statewide, general assistance and medical assistance for the prior year. The following three payments shall be adjusted to reflect the actual unduplicated number of persons who received AFDC, Minnesota family investment program—statewide, general assistance and medical assistance as required by subdivision 1. The commissioner shall ensure that the pertinent payment of the allotment for that quarter is made to each county on the first working day after the end of each quarter of the calendar year, except for the last quarter of the calendar year. The commissioner shall ensure that each county receives its payment of the allotment for that quarter no later than the last working day of that quarter. This scheduling of payments does not require compliance with subdivision 10.

Sec. 18. Minnesota Statutes 1996, section 256E.07, subdivision 1, is amended to read:

Subdivision 1. **FORMULA.** In federal fiscal year 1985 and subsequent years, money for social services that is received from the federal government to reimburse counties for social service expenditures pursuant according to title XX of the Social Security Act shall be allocated to each county according to the following formula:

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(a) Two-thirds shall be allocated on the basis of the annual average number of unduplicated active monthly caseloads in each county in the following programs: aid to families with dependent children, Minnesota family investment program—statewide, medical assistance, general assistance, supplementary security income, and Minnesota supplemental aid.

(b) One-third shall be allocated on the basis of the number of persons residing in the county as determined by the most recent estimate of the state demographer.

(c) The commissioner shall allocate to the counties pursuant according to this section the total money received from the federal government for social services pursuant according to title XX of the Social Security Act, except that portion of the state's allocation which the legislature authorizes for administrative purposes and for migrant day care.

Sec. 19. Minnesota Statutes 1996, section 256E.08, subdivision 3, is amended to read:

Subd. 3. ADMINISTRATION OF INCOME MAINTENANCE PROGRAMS.

The county board may designate itself, a human services board, or a local social services agency to perform the functions of local social services agencies as prescribed in chapter 393 and assigned to county agencies in other law which pertains to the administration of income maintenance programs known as aid to families with dependent children, Minnesota family investment program—statewide, general assistance, Minnesota supplemental aid, medical assistance, general assistance medical care, and emergency assistance.

Sec. 20. Minnesota Statutes 1996, section 256F.05, subdivision 5, is amended to read:

Subd. 5. INAPPROPRIATE EXPENDITURES. Family preservation fund basic, placement earnings, and development grant money must not be used for:

(1) child day care necessary solely because of the employment or training to prepare for employment, of a parent or other relative with whom the child is living;

(2) residential facility payments;

(3) adoption assistance payments;

(4) public assistance payments for aid to families with dependent children, Minnesota family investment program—statewide, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13; or

(5) administrative costs for local social services agency public assistance staff.

Sec. 21. Minnesota Statutes 1996, section 256G.01, subdivision 4, is amended to read:

Subd. 4. ADDITIONAL COVERAGE. The provisions in sections 256G.02, subdivision 4, paragraphs (a) to (d); 256G.02, subdivisions 5 to 8; 256G.03; 256G.04; 256G.05; and 256G.07, subdivisions 1 to 3, apply to the following programs: aid to families with dependent children, Minnesota family investment program—statewide; medical assistance; general assistance; family general assistance; general assistance medical care; and Minnesota supplemental aid.

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Sec. 22. Minnesota Statutes 1996, section 257.3573, subdivision 2, is amended to read:

Subd. 2. **INAPPROPRIATE EXPENDITURES.** Indian child welfare grant money must not be used for:

- (1) child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;
- (2) foster care maintenance or difficulty of care payments;
- (3) residential facility payments;
- (4) adoption assistance payments;
- (5) public assistance payments for aid to families with dependent children, Minnesota family investment program—statewide, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.01 to 145A.14; or
- (6) administrative costs for income maintenance staff.

Sec. 23. Minnesota Statutes 1996, section 260.38, is amended to read:

260.38 COST, PAYMENT.

In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Where such child is eligible to receive a grant of aid to families with dependent children, Minnesota family investment program—statewide or supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under Title IV—E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

Sec. 24. Minnesota Statutes 1996, section 268.0111, subdivision 5, is amended to read:

Subd. 5. **INCOME MAINTENANCE AND SUPPORT SERVICES.** "Income maintenance and support services" means programs through which the state or its subdivisions provide direct financial or in-kind support to unemployed or underemployed persons, including reemployment insurance, aid to families with dependent children, Minnesota family investment program—statewide, general assistance, ~~work readiness assistance~~, food stamps, energy assistance, disability determinations, and child care. Income maintenance and support services do not include medical assistance, aging services, social services, community social services, mental health services, or services for the emotionally disturbed, the mentally retarded, or residents of nursing homes.

Sec. 25. Minnesota Statutes 1996, section 268.0111, subdivision 7, is amended to read:

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Subd. 7. **PUBLIC ASSISTANCE.** "Public assistance" means aid to families with dependent children, Minnesota family investment program—statewide and general assistance, and work readiness.

Sec. 26. Minnesota Statutes 1996, section 268.0122, subdivision 3, is amended to read:

Subd. 3. **DUTIES AS A STATE AGENCY.** The commissioner shall:

- (1) administer the unemployment insurance laws and related programs;
- (2) administer the aspects of aid to families with dependent children, Minnesota family investment program—statewide, general assistance, ~~work readiness~~, and food stamps that relate to employment and training services, subject to the contract under section 268.86, subdivision 2;
- (3) administer wage subsidies and the discretionary employment and training fund;
- (4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;
- (5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;
- (6) enter into agreements with other departments of the state and local units of government as necessary;
- (7) certify employment and training service providers and decertify service providers that fail to comply with performance criteria according to standards established by the commissioner;
- (8) provide consistent, integrated employment and training services across the state;
- (9) establish the standards for all employment and training services administered under this chapter;
- (10) develop standards for the contents and structure of the local service unit plans and plans for Indian tribe employment and training services;
- (11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;
- (12) identify underserved populations, unmet service needs, and funding requirements;
- (13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; and
- (14) enter into agreements with Indian tribes as necessary to provide employment and training services as funds become available.

Sec. 27. Minnesota Statutes 1996, section 268.552, subdivision 5, is amended to read:

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Subd. 5. **ALLOCATION TO APPLICANTS.** Priority for subsidies shall be in the following order:

- (1) applicants living in households with no other income source;
- (2) applicants whose incomes and resources are less than the standard for eligibility for general assistance ~~or work readiness~~; and
- (3) applicants who are eligible for aid to families with dependent children or Minnesota family investment program-statewide.

Sec. 28. Minnesota Statutes 1996, section 268.6751, subdivision 1, is amended to read:

Subdivision 1. **WAGE SUBSIDIES.** Wage subsidy money must be allocated to local service units in the following manner:

(a) The commissioner shall allocate 87.5 percent of the funds available for allocation to local service units for wage subsidy programs as follows: the proportion of the wage subsidy money available to each local service unit must be based on the number of unemployed persons in the local service unit for the most recent six-month period and the number of ~~work readiness assistance cases and aid to families with dependent children and Minnesota family investment program-statewide cases~~ in the local service unit for the most recent six-month period.

(b) Five percent of the money available for wage subsidy programs must be allocated at the discretion of the commissioner.

(c) Seven and one-half percent of the money available for wage subsidy programs must be allocated at the discretion of the commissioner to provide jobs for residents of federally recognized Indian reservations.

(d) By December 31 of each fiscal year, providers and local service units receiving wage subsidy money shall report to the commissioner on the use of allocated funds. The commissioner shall reallocate uncommitted funds for each fiscal year according to the formula in paragraph (a).

Sec. 29. Minnesota Statutes 1996, section 268.676, subdivision 1, is amended to read:

Subdivision 1. **AMONG JOB APPLICANTS.** At least 80 percent of funds allocated among eligible job applicants statewide must be allocated to:

- (1) applicants living in households with no other income source;
- (2) applicants whose incomes and resources are less than the standards for eligibility for general assistance ~~or work readiness~~;
- (3) applicants who are eligible for aid to families with dependent children or Minnesota family investment program-statewide; and
- (4) applicants who live in a farm household who demonstrate severe household financial need.

Sec. 30. Minnesota Statutes 1996, section 268.86, subdivision 2, is amended to read:

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Subd. 2. **INTERAGENCY AGREEMENTS.** By October 1, 1987, the commissioner and the commissioner of human services shall enter into a written contract for the design, delivery, and administration of employment and training services for applicants for or recipients of food stamps or, aid to families with dependent children and work readiness or Minnesota family investment program-statewide, including AFDC and MFIP-S employment and training programs, and general assistance or work readiness grant diversion. The contract must address:

- (1) specific roles and responsibilities of each department;
- (2) assignment and supervision of staff for interagency activities including any necessary interagency employee mobility agreements under the administrative procedures of the department of employee relations;
- (3) mechanisms for determining the conditions under which individuals participate in services, their rights and responsibilities while participating, and the standards by which the services must be administered;
- (4) procedures for providing technical assistance to local service units, Indian tribes, and employment and training service providers;
- (5) access to appropriate staff for ongoing development and interpretation of policy, rules, and program standards;
- (6) procedures for reimbursing appropriate agencies for administrative expenses; and
- (7) procedures for accessing available federal funds.

Sec. 31. Minnesota Statutes 1996, section 268.871, subdivision 1, is amended to read:

Subdivision 1. **RESPONSIBILITY AND CERTIFICATION.** (a) Unless prohibited by federal law or otherwise determined by state law, a local service unit is responsible for the delivery of employment and training services. After February 1, 1988, employment and training services must be delivered by certified employment and training service providers.

(b) The local service unit's employment and training service provider must meet the certification standards in this subdivision in order to be certified to deliver any of the following employment and training services and programs: wage subsidies; ~~work readiness; work readiness and general assistance grant diversion;~~ food stamp employment and training programs; community work experience programs; AFDC or MFIP-S job search; AFDC or MFIP-S grant diversion; AFDC or MFIP-S on-the-job training; and AFDC or MFIP-S case management.

(c) The commissioner shall certify a local service unit's service provider to provide these employment and training services and programs if the commissioner determines that the provider has:

- (1) past experience in direct delivery of the programs specified in paragraph (b);
- (2) staff capabilities and qualifications, including adequate staff to provide timely and effective services to clients, and proven staff experience in providing specific ser-

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vices such as assessments, career planning, job development, job placement, support services, and knowledge of community services and educational resources;

(3) demonstrated effectiveness in providing services to public assistance recipients and other economically disadvantaged clients; and

(4) demonstrated administrative capabilities, including adequate fiscal and accounting procedures, financial management systems, participant data systems, and record retention procedures.

(d) When the only service provider that meets the criterion in paragraph (c), clause (1), has been decertified, pursuant according to subdivision 1a, in that local service unit, the following criteria shall be substituted: past experience in direct delivery of multiple, coordinated, nonduplicative services, including outreach, assessments, identification of client barriers, employability development plans, and provision or referral to support services.

(e) The commissioner shall certify providers of the Minnesota family investment plan case management services as defined in section 256.032, subdivision 3. Providers must meet the standards defined in paragraph (c), except that past experience under paragraph (c), clause (1), must be in services and programs similar to those specified in section 256.032, subdivision 3.

Employment and training service providers shall be certified by the commissioner for two fiscal years beginning July 1, 1991, and every second year thereafter.

Sec. 32. Minnesota Statutes 1996, section 268.90, subdivision 2, is amended to read:

Subd. 2. **EMPLOYMENT CONDITIONS.** (a) An eligible nonprofit or public employer may not terminate, lay off, or reduce the regular working hours of an employee for the purpose of hiring an individual with money available under this program. An eligible employer may not hire an individual with money available through this program if any other person is on layoff from the same or a substantially equivalent job.

(b) Community investment program participants are employees of the project employer within the meaning of workers' compensation laws, personal income tax, and the federal insurance contribution act, but not retirement or civil service laws.

(c) Each project and job must comply with all applicable affirmative action, fair labor, health, safety, and environmental standards.

(d) Individuals employed under the community investment program must be paid a wage at the same wage rates as work site or employees doing comparable work in that locality, unless otherwise specified in law.

(e) Recipients of aid to families with dependent children or Minnesota family investment program—statewide who are eligible on the basis of an unemployed parent may not have available more than 100 hours a month. All employees are limited to 32 hours or four days a week, so that they can continue to seek full-time private sector employment, unless otherwise specified in law.

(f) The commissioner shall establish, by rule, the terms and conditions governing the participation of appropriate public assistance recipients. The rules must, at a minimum, establish the procedures by which the minimum and maximum number of work

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hours and maximum allowable travel distances are determined, the amounts and methods by which work expenses will be paid, and the manner in which support services will be provided. The rules must also provide for periodic reviews of clients continuing employment in community investment programs.

(g) Participation in a community investment program by a recipient of aid to families with dependent children, Minnesota family investment program—statewide or general assistance is voluntary; ~~however, work readiness registrants may be required to participate.~~

Sec. 33. Minnesota Statutes 1996, section 268.916, is amended to read:

268.916 REPORTS.

Each grantee shall submit an annual report to the commissioner on the format designated by the commissioner, including program information report data. By January 1 of each year, the commissioner shall prepare an annual report to the health and human services committee of the house of representatives and the family services committee of the senate concerning the uses and impact of head start supplemental funding, including a summary of innovative programs and the results of innovative programs and an evaluation of the coordination of head start programs with employment and training services provided to AFDC and MFIP-S recipients.

Sec. 34. Minnesota Statutes 1996, section 268.95, subdivision 4, is amended to read:

Subd. 4. **PILOT PROGRAM.** The commissioner shall develop a pilot program, in cooperation with the commissioners of trade and economic development and human services, to enable low-income persons to start or expand self-employment opportunities or home-based businesses that are designed to make the individual entrepreneurs economically independent. The commissioner of human services shall seek necessary waivers from federal regulations to allow recipients of aid to families with dependent children or Minnesota family investment program—statewide to participate and retain eligibility while establishing a business.

Sec. 35. Minnesota Statutes 1996, section 393.07, subdivision 6, is amended to read:

Subd. 6. **PURCHASE OF EQUIPMENT TO AID WELFARE RECIPIENTS.** Every local social services agency authorizing braces, crutches, trusses, wheel chairs and hearing aids for use by recipients of supplemental security income for the aged, blind and disabled, aid to families with dependent children or Minnesota family investment program—statewide and relief shall secure such devices at the lowest cost obtainable conducive to the well being of the recipient and fix the recipient's grant in an amount to cover the cost of the device providing it will be purchased at the lowest cost obtainable, or may make payment for the device directly to the vendor.

Sec. 36. Minnesota Statutes 1996, section 477A.0122, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section, the following definitions apply:

(a) "Children in out-of-home placement" means the total unduplicated number of children in out-of-home care as reported pursuant ~~according~~ to section 257.0725.

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(b) "Family preservation programs" means family-based services as defined in section 256F.03, subdivision 5, families first services, parent and child education programs, and day treatment services provided in cooperation with a school district or other programs as defined by the commissioner of human services.

(c) "Income maintenance caseload" means average monthly number of AFDC or Minnesota family investment program-statewide cases for the calendar year.

By July 1, 1994, the commissioner of human services shall certify to the commissioner of revenue the number of children in out-of-home placement in 1991 and 1992 for each county and the income maintenance caseload for each county for the most recent year available. By July 1 of each subsequent year, the commissioner of human services shall certify to the commissioner of revenue the income maintenance caseload for each county for the most recent calendar year available.

Sec. 37. Minnesota Statutes 1996, section 550.37, subdivision 14, is amended to read:

Subd. 14. **PUBLIC ASSISTANCE.** All relief based on need, and the earnings or salary of a person who is a recipient of relief based on need, shall be exempt from all claims of creditors including any contractual setoff or security interest asserted by a financial institution. For the purposes of this chapter, relief based on need includes AFDC, MFIP, MFIP-R, MFIP-S, Work First, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. The salary or earnings of any debtor who is or has been an eligible recipient of relief based on need, or an inmate of a correctional institution shall, upon the debtor's return to private employment or farming after having been an eligible recipient of relief based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after the debtor's return to employment or farming and after all public assistance for which eligibility existed has been terminated. The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing relief and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been an eligible recipient of relief based on need, or an inmate of a correctional institution, within the preceding six months.

Sec. 38. REVISOR INSTRUCTION.

The revisor of statutes shall identify in Minnesota Statutes and Minnesota Rules all references to aid to families with dependent children, AFDC, aid to dependent children, family general assistance, and FGA, and to Minnesota Statutes, section 256.12, or any of the sections of Minnesota Statutes from sections 256.72 to 256.87.

The revisor shall prepare a report by January 1, 1998, for the 1998 legislature showing where these references are located.

Sec. 39. EFFECTIVE DATE.

This article is effective July 1, 1997.

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ARTICLE 5

PROGRAM INTEGRITY INITIATIVES

Section 1. Minnesota Statutes 1996, section 13.82, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol, the board of peace officer standards and training, the department of commerce, and the department of labor and industry fraud investigation unit, the program integrity section of, and county human service agency client and provider fraud prevention and control units operated or supervised by the department of human services.

Sec. 2. Minnesota Statutes 1996, section 256.01, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC POWERS.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

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(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more

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counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan, including estimated project costs and the proposed order establishing the waiver, shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) ~~In accordance with~~ According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, Minnesota family investment program—statewide, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance, MFIP-S, and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC, MFIP-S, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the

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commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered non-compliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for

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that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

Sec. 3. Minnesota Statutes 1996, section 256.017, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** The following terms have the meanings given for the purpose purposes of this section.

(a) "Administrative penalty" means an adjustment against the county agency's state and federal benefit and federal administrative reimbursement when the commissioner determines that the county agency is not in compliance with the policies and procedures established by the commissioner.

(b) "Quality control case penalty" means an adjustment against the county agency's federal administrative reimbursement and state and federal benefit reimbursement when the commissioner determines through a quality control review that the county agency has made incorrect payments, terminations, or denials of benefits as determined by state quality control procedures for the aid to families with dependent children, Minnesota family investment program-statewide, food stamp, or medical assistance programs, or any other programs for which the commissioner has developed a quality control system. Quality control case penalties apply only to agency errors as defined by state quality control procedures.

(c) "Quality ~~control~~ control/quality assurance" means a review system of a statewide random sample of cases, designed to provide data on program outcomes and the accuracy with which state and federal policies are being applied in issuing benefits and as a fiscal audit to ensure the accuracy of expenditures. The quality ~~control~~ control/quality

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assurance system is administered by the department. For the aid to families with dependent children, Minnesota family investment program—statewide, food stamp, and medical assistance programs, the quality control system is that required by federal regulation, or those developed by the commissioner.

Sec. 4. Minnesota Statutes 1996, section 256.019, is amended to read:

256.019 RECOVERY OF MONEY; APPORTIONMENT.

When an amount is recovered from any source for assistance given under the provisions governing public assistance programs including aid to families with dependent children, MFIP—S, general assistance medical care, emergency assistance, general assistance, work readiness, and Minnesota supplemental aid, there shall be paid to the United States the amount due under the terms of the Social Security Act and the balance must be paid into the treasury of the state or county in accordance with current rates of financial participation; except the county may keep one-half of recovery made by the county agency using any method other than recoupment. For medical assistance, if the recovery is made by a county agency using any method other than recoupment, the county may keep one-half of the nonfederal share of the recovery. This does not apply to recoveries from medical providers or to recoveries begun by the department of human services' surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division or, by the attorney general's office, or child support collections. In the food stamp program, the nonfederal share of recoveries in the federal tax refund offset program (FTROP) only will be divided equally between the state agency and the involved county agency.

Sec. 5. Minnesota Statutes 1996, section 256.045, subdivision 3, is amended to read:

Subd. 3. **STATE AGENCY HEARINGS.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment pursuant according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal pursuant according to this section is given by other provision of law; or (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or

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relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 6. Minnesota Statutes 1996, section 256.046, is amended to read:

256.046 ADMINISTRATIVE FRAUD DISQUALIFICATION HEARINGS.

Subdivision 1. **HEARING AUTHORITY.** A local agency ~~may~~ shall initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action, in the aid to families with dependent children, MFIP-S, child care, general assistance, family general assistance, Minnesota supplemental aid, medical care, or food stamp programs. ~~The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the aid to families with dependent children program cash grant and medical care programs.~~

Subd. 2. **COMBINED HEARING.** The referee may combine a fair hearing and administrative fraud disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the individual receives prior notice that the hearings will be combined. If the administrative fraud disqualification hearing and fair

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hearing are combined, the time frames for administrative fraud disqualification hearings set forth specified in Code of Federal Regulations, title 7, section 273.16, and title 45, section 235.112, as of September 30, 1995, apply. If the individual accused of wrongfully obtaining assistance is charged under section 256.98 for the same act or acts which are the subject of the hearing, the individual may request that the hearing be delayed until the criminal charge is decided by the court or withdrawn.

Sec. 7. [256.0471] OVERPAYMENTS BECOME JUDGMENTS BY OPERATION OF LAW.

Subdivision 1. QUALIFYING OVERPAYMENT. Any overpayment for assistance granted under sections 256.031 to 256.0361, 256.72 to 256.871, and 256H.05; chapters 256B, 256D, 256I, 256J, and 256K; and the food stamp program, except agency error claims, become a judgment by operation of law 90 days after the notice of overpayment is personally served upon the recipient in a manner that is sufficient under rule 4.03(a) of the Rules of Civil Procedure for district courts, or by certified mail, return receipt requested. This judgment shall be entitled to full faith and credit in this and any other state.

Subd. 2. OVERPAYMENTS INCLUDED. This section is limited to overpayments for which notification is issued within the time period specified under section 541.05.

Subd. 3. NOTIFICATION REQUIREMENTS. A judgment is only obtained after:

(1) a notice of overpayment has been personally served on the recipient or former recipient in a manner sufficient under rule 4.03(a) of the Rules of Civil Procedure for district courts, or mailed to the recipient or former recipient certified mail return receipt requested; and

(2) the time period under section 256.045, subdivision 3, has elapsed without a request for a hearing, or a hearing decision has been rendered under section 256.045 or 256.046 which concludes the existence of an overpayment that meets the requirements of this section.

Subd. 4. NOTICE OF OVERPAYMENT. The notice of overpayment shall include the amount and cause of the overpayment, appeal rights, and an explanation of the consequences of the judgment that will be established if an appeal is not filed timely or if the administrative hearing decision establishes that there is an overpayment which qualifies for judgment.

Subd. 5. JUDGMENTS ENTERED AND DOCKETED. A judgment shall be entered and docketed under section 548.09 only after at least three months have elapsed since:

(1) the notice of overpayment was served on the recipient pursuant to subdivision 3; and

(2) the last time a monthly recoupment was applied to the overpayment.

Subd. 6. DOCKETING OF OVERPAYMENTS. On or after the date an unpaid overpayment becomes a judgment by operation of law under subdivision 1, the agency or public authority may file with the court administrator:

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(1) a statement identifying, or a copy of, the overpayment notice which provides for an appeal process and requires payment of the overpayment;

(2) proof of service of the notice of overpayment;

(3) an affidavit of default, stating the full name, occupation, place of residence, and last known post office address of the debtor; the name and post office address of the agency or public authority; the date or dates the overpayment was incurred; the program that was overpaid; and the total amount of the judgment; and

(4) an affidavit of service of a notice of entry of judgment shall be made by first class mail at the address where the debtor was served with the notice of overpayment. Service is completed upon mailing in the manner designated.

Subd. 7. DOES NOT IMPEDE OTHER METHODS. Nothing in this section shall be construed to impede or restrict alternative recovery methods for these overpayments or overpayments which do not meet the requirements of this section.

Sec. 8. Minnesota Statutes 1996, section 256.98, subdivision 1, is amended to read:

Subdivision 1. WRONGFULLY OBTAINING ASSISTANCE. A person who commits any of the following acts or omissions is guilty of theft and shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5):

(1) obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care or vouchers produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9351 to 256.966, to which the person is not entitled or assistance greater than that to which the person is entitled, or who;

(2) knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency with intent to defeat the purposes of sections 145.891 to 145.897, 256.12, 256.031 to 256.0361, 256.72 to 256.871, and 256.9351 to 256.966, child care, the MFIP-S, chapter 256B, 256D, 256J, or 256K, or all of these sections is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), (3)(a) and (e), (4), and (5).

The continued receipt of assistance to which the person is not entitled or greater than that to which the person is entitled as a result of any of the acts, failure to act, or concealment described in this subdivision shall be deemed to be continuing offenses from the date that the first act or failure to act occurred.

Sec. 9. Minnesota Statutes 1996, section 256.98, subdivision 4, is amended to read:

Subd. 4. RECOVERY OF ASSISTANCE. The amount of assistance determined to have been incorrectly paid is recoverable from:

(1) the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both in proportion to the contribution of each; and

(2) any person found to have taken independent action to establish eligibility for, conspired with, or aided and abetted, any recipient of public assistance found to have been incorrectly paid.

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The obligations established under this subdivision shall be joint and several and shall extend to all cases involving client error as well as cases involving wrongfully obtained assistance.

Sec. 10. Minnesota Statutes 1996, section 256.98, subdivision 8, is amended to read:

Subd. 8. **DISQUALIFICATION FROM PROGRAM.** Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the aid to families with dependent children program, the Minnesota family assistance program—statewide, the food stamp program, the Minnesota family investment plan, child care program, the general assistance or family general assistance program, or the Minnesota supplemental aid program, or the work readiness program shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

- (1) for ~~six months~~ one year after the first offense;
- (2) for ~~12 months~~ two years after the second offense; and
- (3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

Sec. 11. Minnesota Statutes 1996, section 256.983, subdivision 1, is amended to read:

Subdivision 1. **PROGRAMS ESTABLISHED.** Within the limits of available appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall require the establishment maintenance of budget neutral fraud prevention investigation programs in the seven counties participating in the fraud prevention investigation pilot project established under this section, and in 11 additional Minnesota counties with the largest aid to families with dependent children program caseloads as of July 1, 1991. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to: (1) other counties that have welfare fraud control programs already in place based on enhanced funding contracts covering the fraud investigation function; and (2) counties that have the largest AFDC caseloads as of July 1, 1994, and are not currently participating in the fraud prevention investigation pilot project. ~~The pilot project may be expanded provided the expansion is budget neutral to the state.~~

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Sec. 12. Minnesota Statutes 1996, section 256.983, subdivision 4, is amended to read:

Subd. 4. **FUNDING.** (a) ~~Every involved county agency shall either have in place or obtain an approved contract which meets all federal requirements necessary to obtain enhanced federal funding for its welfare fraud control and fraud prevention investigation programs. County agency reimbursement shall be made through the settlement provisions applicable to the aid to families with dependent children and program, food stamp programs program, Minnesota family investment program—statewide, and medical assistance program and other federal and state-funded programs.~~

(b) ~~After allowing an opportunity to establish compliance, The commissioner will deny administrative reimbursement maintain program compliance if for any three-month three consecutive month period during any grant year, a county agency fails to comply with fraud prevention investigation program guidelines, or fails to meet the cost-effectiveness standards developed by the commissioner. This result is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent month of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or, continued deviation from standards of more than ten percent after submission of a corrective action plan, will result in denial of funding for each subsequent month during the grant year, or billing the county agency for fraud prevention investigation (FPI) service provided by the commissioner, or reallocation of program grant funds, or investigative resources, or both, to other counties. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the FPI project.~~

Sec. 13. Minnesota Statutes 1996, section 256.984, subdivision 1, is amended to read:

Subdivision 1. **DECLARATION.** Every application for public assistance under this chapter and/or chapters 256B, 256D, 256K, MFIP-S program, and food stamps under chapter 393 shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:

“I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both.”

Sec. 14. Minnesota Statutes 1996, section 256.986, is amended to read:

256.986 COUNTY COORDINATION OF FRAUD CONTROL ACTIVITIES.

(a) The county agency shall prepare and submit to the commissioner of human services by ~~January 1~~ April 30 of each state fiscal year a plan to coordinate county duties related to the prevention, investigation, and prosecution of fraud in public assistance programs. ~~Plans may be submitted on a voluntary basis prior to January 1, 1996. Each county must submit its first annual plan prior to January 1, 1997~~ April 30, 1998.

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(b) Within the limits of appropriations specifically made available for this purpose, the commissioner may make grants to counties submitting plans under paragraph (a) to implement coordination activities.

Sec. 15. Minnesota Statutes 1996, section 256.9861, subdivision 1, is amended to read:

Subdivision 1. **PROGRAM ESTABLISHED.** Within the limits of available state and federal appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall make funding available to county agencies for the establishment of program integrity reinvestment initiatives. The project shall initially be limited to those county agencies participating in federally funded optional fraud control programs as of January 1, 1995 fraud control efforts and require the maintenance of county efforts and financial contribution that were in place during fiscal year 1996.

Sec. 16. Minnesota Statutes 1996, section 256.9861, subdivision 2, is amended to read:

Subd. 2. **COUNTY PROPOSALS.** Each included county shall develop and submit annual funding, staffing, and operating grant proposals to the commissioner no later than April 30 of each year for the purpose of allocating federal and state funding and appropriations. ~~For the first operating year only, the proposal shall be submitted no later than October 30.~~ Each proposal shall provide information on:

- (1) the staffing and funding of the fraud investigation and prosecution operations;
- (2) job descriptions for agency fraud control staff;
- (3) contracts covering outside investigative agencies;
- (4) operational methods to integrate the use of fraud prevention investigation techniques; and
- (5) implementation and utilization of administrative disqualification hearings and diversions into by the existing county fraud control and prosecution procedures.

Sec. 17. Minnesota Statutes 1996, section 256.9861, subdivision 4, is amended to read:

Subd. 4. **STANDARDS.** The commissioner shall, after consultation with the involved counties, establish standards governing the performance levels of involved county investigative units based on grant agreements negotiated with the involved county agencies. The standards shall take into consideration and may include investigative caseloads, grant savings levels, the comparison of fraud prevention and prosecution directed investigations, utilization levels of administrative disqualification hearings, the timely reporting and implementation of disqualifications, and the timeliness of the submission of statistical reports received from prosecutors.

Sec. 18. Minnesota Statutes 1996, section 256.9861, subdivision 5, is amended to read:

Subd. 5. **FUNDING.** (a) Grant funds are intended to help offset the reduction in federal financial participation to 50 percent and may be apportioned to the participating

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counties whenever feasible, and within the commissioner's discretion, to achieve this goal. State funding shall be made available contingent on counties submitting a plan that is approved by the department of human services. Failure or delay in obtaining that approval shall not, however, eliminate the obligation to maintain fraud control efforts at the January 1, 1995 June 30, 1996, level. Additional counties may be added to the project to the extent that funds are subsequently made available. Every involved county must meet all federal requirements necessary to obtain federal funding for its welfare fraud control and prevention programs. County agency reimbursement shall be made through the settlement provisions applicable to the AFDC and MFIP-S, food stamp, and medical assistance programs.

(b) Should a county agency fail to comply with the standards set, or fail to meet cost-effectiveness standards developed by the commissioner for three months during any grant year any three-month period, the commissioner shall deny reimbursement or administrative costs, after allowing an opportunity to establish compliance.

(c) Any denial of reimbursement under paragraph (b) is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent months of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or continued deviation from standards of more than ten percent after submission of corrective action plan, will result in denial of funding for each such month during the grant year, or billing of the county agency for program integrity reinvestment project services provided by the commissioner or reallocation of grant funds to other counties. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the program integrity reinvestment project.

Sec. 19. [256.9863] ASSISTANCE TRANSACTION CARD; PRESUMPTION OF RECEIPT OF BENEFITS.

Any person in whose name an assistance transaction card has been issued shall be presumed to have received the benefit of all transactions involving that card. This presumption applies in all situations unless the card in question has been reported lost or stolen by the cardholder. This presumption may be overcome by a preponderance of evidence indicating that the card was neither used by nor with the consent of the cardholder. Overcoming this presumption does not create any new or additional payment obligation not otherwise established in law, rule, or regulation.

Sec. 20. [256.9864] REPORTS BY RECIPIENT.

(a) An assistance unit with a recent work history or with earned income shall report monthly to the county agency on income received and other circumstances affecting eligibility or assistance amounts. All other assistance units shall report on income and other circumstances affecting eligibility and assistance amounts, as specified by the state agency.

(b) An assistance unit required to submit a report on the form designated by the commissioner and within ten days of the due date or the date of the significant change, whichever is later, or otherwise report significant changes which would affect eligibility or assistance amounts, is considered to have continued its application for assistance effective

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the date the required report is received by the county agency, if a complete report is received within a calendar month in which assistance was received, except that no assistance shall be paid for the period beginning with the end of the month in which the report was due and ending with the date the report was received by the county agency.

Sec. 21. [256.9865] RECOVERY OF OVERPAYMENTS AND ATM ERRORS.

Subdivision 1. OBLIGATION TO RECOVER. If an amount of MFIP-S assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. This recovery authority also extends to preexisting claims or newly discovered claims established under the AFDC program in effect on January 1, 1997. The agency shall give written notice to the recipient of its intention to recover the overpayment. County agency efforts and financial contributions shall be maintained at the level in place during fiscal year 1996.

Subd. 2. RECOUPMENT. When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need in nonfraud cases and ten percent where fraud has occurred. For recipients receiving benefits via electronic benefits transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. In cases where there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

Subd. 3. VOLUNTARY REPAYMENTS. Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions in subdivision 2, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

Subd. 4. CLOSED CASE RECOVERIES. The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance according to standards adopted by rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance unless the individual has been convicted of fraud under section 256.98.

Sec. 22. [256.9866] COMMUNITY SERVICE AS A COUNTY OBLIGATION.

Community service shall be an acceptable sentencing option but shall not reduce the state or federal share of any amount to be repaid or any subsequent recovery. Any reduction or offset of any such amount ordered by a court shall be treated as follows:

(1) any reduction in an overpayment amount, to include the amount ordered as restitution, shall not reduce the underlying amount established as an overpayment by the state or county agency;

(2) total overpayments shall continue as a debt owed and may be recovered by any civil or administrative means otherwise available to the state or county agency; and

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(3) any amount ordered to be offset against any overpayment shall be deducted from the county share only of any recovery and shall be based on the prevailing state minimum wage. To the extent that any deduction is in fact made against any state or county share, it shall be reimbursed from the county share of payments to be made under section 256.025.

Sec. 23. Minnesota Statutes 1996, section 256D.09, subdivision 6, is amended to read:

Subd. 6. **RECOVERY OF OVERPAYMENTS.** (a) If an amount of general assistance or family general assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member, for one or more monthly assistance payments, until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need in nonfraud cases and ten percent where fraud has occurred, or the amount of the monthly payment, whichever is less, for all overpayments. ~~whether or not the overpayment is due solely to agency error. The amount of this reduction is ten percent, if the overpayment is due solely to having wrongfully obtained assistance, whether based on:~~

~~(1) a court order;~~

~~(2) the finding of an administrative fraud disqualification hearing or the waiver of such a hearing; or~~

~~(3) a confession or judgment containing an admission of an intentional program violation.~~

(c) In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(d) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions provided in this subdivision, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

(e) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance under standards adopted in rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of violating section 256.98.

Sec. 24. Minnesota Statutes 1996, section 270A.03, subdivision 5, is amended to read:

Subd. 5. **DEBT.** "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125 and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

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~~A debt does not include~~ includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food stamps, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$6,400 or less;
- (2) for a debtor with one dependent, an income of \$8,200 or less;
- (3) for a debtor with two dependents, an income of \$9,700 or less;
- (4) for a debtor with three dependents, an income of \$11,000 or less;
- (5) for a debtor with four dependents, an income of \$11,600 or less; and
- (6) for a debtor with five or more dependents, an income of \$12,100 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 1991 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 290.06, subdivision 2d, for the expansion of the tax rate brackets.

Sec. 25. Minnesota Statutes 1996, section 388.23, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, self-service storage facilities, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies, insurance records relating to the monetary payment or settlement of claims, and wage and employment records of an applicant or recipient of public assistance who is the subject of a welfare fraud investigation relating to eligibility information for public assistance programs. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation. Administrative subpoenas may only be issued in welfare fraud cases if there is probable cause to believe a crime has been committed. This provision applies only to the records of business entities and does not extend to private individuals or their dwellings. Subpoenas may only be served by peace officers as defined by section 626.84, subdivision 1, paragraph (e).

Sec. 26. Minnesota Statutes 1996, section 393.07, subdivision 10, is amended to read:

Subd. 10. **FEDERAL FOOD STAMP PROGRAM AND THE MATERNAL AND CHILD NUTRITION ACT.** (a) The local social services agency shall establish

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and administer the food stamp program ~~pursuant~~ according to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and state-wide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 or 609.821, or both, and is subject to both the criminal and civil penalties provided under those sections:

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false willful statement or representation ~~misrepresentation~~, or intentional concealment of a material fact, food stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is not entitled or in an amount greater than that to which that person is entitled or which specify nutritional supplements to which that person is not entitled; or

(2) presents or causes to be presented, coupons or vouchers issued according to sections 145.891 to 145.897 for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) willfully uses, possesses, or transfers food stamp coupons or, authorization to purchase cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary to existing state or federal law, rules, or regulations; or

(4) buys or sells food stamp coupons, authorization to purchase cards or, other assistance transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food obtained through the redemption of vouchers issued according to sections 145.891 to 145.897 for cash or consideration other than eligible food.

(d) A peace officer or welfare fraud investigator may confiscate food stamps, authorization to purchase cards, or other assistance transaction devices found in the possession of any person who is neither a recipient of the food stamp program nor otherwise authorized to possess and use such materials. Confiscated property shall be disposed of as the commissioner may direct and consistent with state and federal food stamp law. The confiscated property must be retained for a period of not less than 30 days to allow any affected person to appeal the confiscation under section 256.045.

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(e) Food stamp overpayment claims which are due in whole or in part to client error shall be established by the county agency for a period of six years from the date of any resultant overpayment.

(f) With regard to the federal tax revenue offset program only, recovery incentives authorized by the federal food and consumer service shall be retained at the rate of 50 percent by the state agency and 50 percent by the certifying county agency.

(g) A peace officer, welfare fraud investigator, federal law enforcement official, or the commissioner of health may confiscate vouchers found in the possession of any person who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized to possess and use such vouchers. Confiscated property shall be disposed of as the commissioner of health may direct and consistent with state and federal law. The confiscated property must be retained for a period of not less than 30 days.

Sec. 27. FUNDING AVAILABILITY.

Unexpended funds appropriated for the provision of program integrity activities for fiscal year 1998 will also be available to the commissioner to fund fraud prevention and control initiatives and do not cancel but are available to the commissioner for these purposes for fiscal year 1999. Unexpended funds may be transferred between the fraud prevention investigation program and fraud control programs to promote the provisions of sections 256.983 and 256.9861.

Sec. 28. EFFECTIVE DATE.

Sections 1 to 27 are effective July 1, 1997.

Presented to the governor April 29, 1997

Signed by the governor April 30, 1997, 2:12 p.m.

CHAPTER 86—H.F.No. 209

An act relating to human services; changing provisions for placement of children; amending Minnesota Statutes 1996, sections 257.071, subdivisions 1a and 7; 257.072, subdivisions 1, 2, 3, 4, 7, and 9; 259.29; 259.57, subdivision 2; 259.77; 260.181, subdivision 3; and 260.191, subdivision 1a.

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

Section 1. Minnesota Statutes 1996, section 257.071, subdivision 1a, is amended to read:

Subd. 1a. **PROTECTION OF HERITAGE OR BACKGROUND PLACEMENT DECISIONS BASED ON BEST INTEREST OF THE CHILD.** The authorized child-placing agency shall (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by giving due, not sole, consideration of the child's race or ethnic heritage in making a family foster care placement. requiring an individualized determination of the needs of the child and of how the selected placement will serve the

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