

PUBLIC WELFARE

CHAPTER 209

S. B. No. 68—(Women's and Children's Welfare Committee)

AID TO DEPENDENT CHILDREN

An Act in relation to Public Welfare and Social Security; to provide for public aid to dependent children, and prescribing the duties of the State Public Welfare Board and the County Welfare Boards in the administration thereof and declaring an emergency, and repealing Chapter 165 of the Laws of 1925, Sections 2546a1 to 2546a10 inclusive of the 1925 Supplement to the 1913 Compiled Laws of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITION.] The term "State Board" as used in this Act shall mean the State Public Welfare Board, created by Chapter 221 of the Session Laws of 1935; the term "County Board" as used in this Act shall mean the County Welfare Board in each of the Counties of the State as created by Chapter 123 of the Session Laws of 1935. The word "assistance" means money payments with respect to dependent children; an "applicant" shall mean a person or agency having the custody of a dependent child or children who is making application for aid for such child or children under the provisions of this Act; a "dependent" child means a needy child under the age of eighteen years who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives liable under the law for his support are not able to provide adequate care and support for such child without public assistance, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in the place of residence maintained by one or more of such relatives as his or their own home or who is living in a foster home other than that of a relative; or in a home maintained or provided by any child-caring or child-placing agency duly authorized under the laws of North Dakota to carry on such work or in a foster home other than that of a relative approved and selected by such agency and approved by the State Board. As used in this Act "child placement" shall mean the placing of a dependent child in a family home for care, education or adoption.

§ 2. DUTIES OF THE STATE BOARD.] The State Board shall:

- (a) Supervise the administration of assistance to dependent children under this Act by the County Boards;
- (b) Make rules and regulations and take such action as may be necessary or desirable for carrying out the provisions of this Act.

All rules and regulations made by the State Board shall be binding on the Counties and shall be complied with by the respective County Boards.

(c) Establish adequate standards for personnel employed by the County Boards in the administration of this Act and make the necessary rules and regulations to maintain such standards.

(d) Prescribe the form of and print and supply to the County Boards blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable.

(e) Co-operate with the Federal Social Security Board created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935, in any reasonable manner as may be necessary to qualify for Federal Aid for assistance to dependent children, in conformity with the provisions of this Act, including the making of such reports on such forms and containing such information as the Federal Social Security Board may, from time to time, require and comply with such provisions as such Board may, from time to time, find necessary.

§ 3. DUTIES OF COUNTY BOARDS.] The County Boards shall:

(a) Administer the provisions of this Act in the respective Counties, subject to the rules and regulations prescribed by the State Public Welfare Board, pursuant to the provisions of this Act.

(b) Report to the State Board at such times and in such manner and form as the State Board may, from time to time, direct.

(c) Submit quarterly and annually to the Board of County Commissioners a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this Act.

(d) To co-operate with Juvenile Courts and licensed children's agencies; but this Act is not to be construed to authorize a County Board to make child placement.

§4. PRESERVE AND PROTECT RELIGIOUS FAITH.] It shall be the duty of the County and State Welfare Boards to preserve and protect the religious faith of children coming under their jurisdiction.

§ 5. ELIGIBILITY FOR ASSISTANCE TO DEPENDENT CHILDREN.] Any dependent child shall be granted assistance under this Act who:

(a) Has resided in the State for one year immediately preceding the application for such assistance; or was born within the State within one year immediately preceding the application and whose mother has resided in the State for one year immediately preceding the date of application; provided, however, that if such child has not resided in any County in the State for the full period of one year, within the year preceding the application, it shall be eligible

for assistance under this Act from the County of longest residence within such year.

(b) Is living in a suitable family home, meeting the standards of care and health fixed by the laws of this State and the rules and regulations of the State Public Welfare Board, or is living in a home maintained or selected by a child caring or child placing agency duly licensed under the laws of the State of North Dakota; provided, however, that funds received from the Federal Government under the Social Security Act shall not be expended in paying for such care unless or until the laws of the United States permit Federal funds granted to the State for aid to dependent children be expended for such purposes.

§ 6. AMOUNT OF ASSISTANCE.] The amount of assistance which shall be granted for any dependent child shall be determined with due regard to the resources and the necessary expenditures of the family and the conditions existing in such case and in accordance with the rules and regulations made by the State Board, and shall be sufficient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence, compatible with decency and health; provided that the maximum amount allowed for one child shall not exceed the sum of \$18.00 per month, or if there is more than one child in the same home, not to exceed \$18.00 for any month with respect to one such dependent child, and \$12.00 for each month with respect to each of the other dependent children; provided, however, that the State Board shall have authority to increase such maximum amounts in the event the Federal Social Security Act is amended so as to increase the amount of aid that may be granted to the State by the Federal Government with respect to dependent children; provided, however, that the State Welfare Board may authorize the payment of not to exceed \$18 per month for any number of children in the care of a licensed agency out of State Funds.

§ 7. APPLICATION FOR ASSISTANCE.] Application for assistance under this Act shall be made to the County Board of the County in which the dependent child resides or in the County of longest residence if such child has not resided within one County for the full period of one year immediately preceding the date of application. The application shall be made by the person with whom the child is living or the person or organization having custody of such child and shall contain information as to the age and residence of the child and such other information as may be required by the rules and regulations of the State Board. One application may be made for several children of the same family. The application shall contain a statement of the amount of property both personal and real, which is owned by the applicant or such dependent child, and of all income which he may have at the time of filing of the application, and the names and addresses of all relatives legally responsible for the sup-

port of the child or children for whom aid is requested, and of their financial condition and income.

§ 8. INVESTIGATION.] Whenever a County Board receives a notification of the dependency of a child, or an application for assistance, an investigation shall be made promptly of the circumstances of the child to ascertain the facts supporting the application and such other information as may be required by the State Board. The investigation shall include a visit to the home of the child and of the person who will have custody of the child during the time assistance is granted; provided, however, that such visit may be dispensed with where the child is in a home maintained or that has been selected and approved by a child-placing agency duly qualified under the laws of the State of North Dakota. All reports and all documentary evidence submitted in connection with any application for assistance under this Act shall be made a part of the files in the case and on appeal to or review by the State Board, such reports and documentary evidence shall be considered by the State Board.

The County Board and the State Board and the officers and authorized employees thereof authorized to make investigations under this Act shall have the power to conduct examinations, require the attendance of witnesses and the production of books, records and papers, and may make application to the District Court of the County to compel the attendance of witnesses and the production of such books, records and papers. The officers and employees designated by the County Boards or the State Board may also administer oaths and affirmations.

§ 9. DISPOSITION OF APPLICATION.] Upon the completion of such investigation the County Board shall determine whether the applicant is eligible for assistance and shall make a written finding in duplicate to the effect that the application be allowed or rejected as the case may be. If the County Board finds that the application should be allowed it shall set forth in said finding the amount of monthly assistance which it finds the applicant ought to receive. In all cases a copy of the application and of the findings of the County Board shall forthwith be transmitted to the State Board. If the County Board finds that the application for assistance should be rejected it shall forthwith notify the applicant in writing of its decision, by registered mail, return receipt requested, or by delivery of notice personally to the applicant.

The notice to the applicant shall also state that he or she may appeal from the finding of the County Board to the State Board within thirty days from the receipt by the applicant of such written notice and that such appeal may be taken by filing a written notice of appeal with the County Board and sending one by registered mail, addressed to the Executive Director of the Public Welfare Board of North Dakota, Bismarck, North Dakota.

The State Board may approve, modify or reverse the findings

of the County Board in any case; it may return the application to the County Board for such further action or proceedings as it may direct; or it may conduct the hearing or make or cause a further investigation to be made and make such final disposition of the application as in its judgment the ends of justice require; but in any case where assistance is withdrawn, revoked or suspended, the applicant must be afforded a fair hearing before the State Board in the same manner as a hearing is afforded upon an appeal from the decision of the County Board rejecting an application for assistance.

§ 10. APPEAL TO THE STATE BOARD.] The County Board shall at once report to the State Board its decision upon each application. If an application is not acted upon by the County Board within a reasonable time after the filing of the application or if the application is denied or if the applicant deems the allowance insufficient, the applicant may appeal to the State Board by filing a written notice with the County Board and mailing a copy of such notice of appeal addressed to the Executive Director of the Public Welfare Board at Bismarck, North Dakota. Where an appeal is taken, the State Board shall give the applicant an opportunity for a fair hearing. All decisions of the State Board shall be binding upon the County Board. The Public Welfare Board of North Dakota may designate one or more members of such Board to hear an appeal. It may also designate some person to act as referee and take and certify evidence to the Board. When an appeal is heard before a member of the State Board, or a referee designated by such Board, such person shall make findings in writing and state the reason why the application should be granted or rejected as the case may be, and report such findings to the State Board, together with all the evidence upon which the same is based. The State Board may accept and approve such findings or reverse or modify the same or hear the matter anew or make such disposition of the appeal as the facts and the law warrants; but in each case where the action of the Board results in a denial of assistance or in a denial of the claim, of the applicant in whole or in part, such appellant upon demand shall be afforded a fair hearing before the State Board.

§ 11. PERIODIC RECONSIDERATION AND CHANGES IN AMOUNT OF ASSISTANCE.] All assistance granted under this Act may be reconsidered at such times as the State Board shall so require. After such further investigation as the State Board may direct, the amount of assistance may be changed or assistance may be withdrawn entirely if it is found that the child's circumstances have altered sufficiently to warrant such action.

The State Board may also upon its own motion reconsider any and all assistance grants theretofore made. It may make such additional investigation in any case or in all cases as it may deem necessary. It may consider any application upon which a decision has not been made by the County Board within a reasonable time and if

after such investigation the State Board determines that the ends of justice so require, assistance may be granted where it has been refused or the amount may be changed or assistance may be withdrawn; but whenever assistance is withdrawn, revoked or suspended, or in any way changed, either pursuant to the findings of the County Board or the decision of the State Board, the applicant shall be notified in writing and shall thereupon have the same right and opportunity of fair hearing before the State Board as is afforded upon an appeal from the decision of the County Board in rejecting an application for assistance.

§ 12. STATE BOARD AUTHORIZED TO EXTEND PROVISIONS OF ACT.] In case the Social Security Act is amended so as to authorize the expenditure of funds for care of dependent children in foster homes or child caring homes or institutions, then the State Board shall be authorized to extend the provisions of the plan set up under this Act accordingly.

§ 13. COUNTY APPROPRIATION.] The Board of County Commissioners in each County in this State shall appropriate annually such sum as in its judgment may be needed to carry out the provisions of this Act, including expenses of administration based upon a budget prepared by the County Welfare Board, after taking into account State aid and shall include in the tax levy for such County the sum or sums appropriated for that purpose. Should the sum so appropriated, however, be expended or exhausted during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the Board of County Commissioners.

If the financial condition of any County is such that it cannot make an appropriation or levy a tax for aid to dependent children or cannot legally issue warrants in an amount sufficient to provide the necessary funds to comply with the provisions of this Act, the Board of County Commissioners shall report such fact to the State Board. The State Board shall make, or cause to be made, a complete investigation of the financial condition of such County and if such investigation shows that any County cannot appropriate funds or legally issue warrants or levy a tax in an amount sufficient to provide the County's share of funds needed for aid to dependent children in that County, the State Board may provide either as a grant or as a loan that County's share of funds for aid to dependent children or so much thereof as may be necessary from State funds appropriated to the Public Welfare Board for aid to dependent children.

§ 14. AID TO DEPENDENT CHILDREN FUND.] There shall be established by the Public Welfare Board of North Dakota a fund to be known as "North Dakota Aid to Dependent Children Fund"; and all moneys that shall be received by the State Board for aid to dependent children purposes from the State of North Dakota, from

any of the Counties within the State or from the United States under the provisions of the Social Security Act, or from any other source, shall be placed in such fund. It shall be and is made the duty of the Treasurer of the State Board to receive all such monies as the same may be paid to him and to deposit the same in such fund; and the Treasurer shall disburse such funds only for aid to dependent children and expenses of administration of aid to dependent children in North Dakota, and only upon checks or vouchers, duly drawn upon him for such purposes, pursuant to the directions and authority of the State Board.

The Treasurer shall issue in triplicate receipts for all monies received by him for the "Aid to Dependent Children Fund for North Dakota," showing the dates upon and sources from which the monies are received, and shall deliver forthwith one of such receipts to the person, officer or agent making the payment, one receipt to the Executive Director of the State Board, and the other receipt shall be retained by the Treasurer.

§ 15. REIMBURSEMENT PROCEDURE.] (a) The State Board shall keep records and accounts in relation to the expenditures for aid to dependent children in each County in North Dakota; and each County shall reimburse the State Board for one-half of the amount expended for aid to dependent children in such County in excess of the amount provided by the Federal Social Security Board.

(b) Claims for reimbursement shall be presented by the State Board to the Board of County Commissioners at the end of each calendar month. The Executive Director of the State Board shall certify to each County the total amount paid for aid to dependent children to persons in that County, and the County's share of such payments; and the amount so certified shall be paid to the Treasurer of the Public Welfare Board from the County Treasurer upon the audit and approval of the County Auditor and the Chairman of the Board of County Commissioners.

§ 16. DISBURSEMENTS OF AID TO DEPENDENT CHILDREN FUND.] (a) All payments for aid to dependent children and for expenses incident to the administration of aid to dependent children in North Dakota shall be made by checks or warrants drawn on the Aid to Dependent Children Fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the Public Welfare Board of North Dakota.

(b) The Treasurer of the State Board and all persons having any control over or who handle any money of the Aid to Dependent Children Fund shall be bonded in such sum as the State Board by resolution shall require.

(c) Checks or warrants drawn in payment of aid to dependent children shall be mailed to the Executive Secretary of each County Welfare Board and it shall be the duty of the Executive

Secretary of the County Welfare Board to mail or deliver such checks to the person or agency having legal custody of the child or children for whom the aid has been provided.

§ 17. NO FEES TO BE CHARGED.] No person shall make any charge or receive any fee for representing an applicant or recipient of assistance to dependent children in any proceeding hereunder; or with respect to any application, whether such fee or charge be paid by the applicant or recipient or by any other person or persons.

§ 18. RECORDS TO BE CONFIDENTIAL.] All applications and records concerning any child shall be confidential and shall be open to inspection only by persons authorized by the State or the United States in connection with their official duties, but any part of the records may be used as a basis for decision on claim of the applicant or recipient and shall be available for inspection by the applicant in any case where he applies for fair hearing either by appeal or otherwise.

§ 19. FRAUDULENT ACTS.] Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device,

(1) Assistance to which he is not entitled;

(2) Assistance greater than that to which he is justly entitled; shall, upon conviction therefor, be fined not more than \$500.00 or be imprisoned for not more than one year in the State Penitentiary or the County jail, or by both such fine and imprisonment, in the discretion of the Court. In assessing the penalty the Court shall take into consideration the amount of money fraudulently received.

§ 20. LIMITATION OF ACT.] All assistance granted under this Act shall be deemed to be granted and to be held subject to the provision of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claims for compensation or otherwise by reason of his assistance being affected in any way by any amending or repealing Act.

§ 21. SHORT TITLE.] This Act may be cited as the "Aid to Dependent Children" Act.

§ 22. REPEALS.] Chapter 165 of the Session Laws of 1925, including Section 2546a1 to and including 2546a10 of the Supplement to the 1913 Compiled Laws of North Dakota for 1925, are hereby repealed.

§ 23. SEPARABILITY CLAUSE.] If any Section of this Act shall be held unconstitutional, the remaining provisions shall be given full force and effect as if the part held unconstitutional had not been included therein.

§ 24. EMERGENCY.] Whereas this Act is necessary in order that the State may cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935, and in order that the State may qualify for Federal aid to dependent children under said Social Security Act, this Act is declared to be an emergency measure and shall be in force and effect immediately after its passage and approval.

Approved March 16, 1937.

CHAPTER 210

S. B. No. 98—(Committee on Women's and Children's Welfare)

AID TO THE NEEDY BLIND

An Act to promote the Public Welfare by providing aid to the needy blind.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITIONS.] As used in this Act the masculine pronoun in all cases includes the feminine:

"State Agency" means the Public Welfare Board of North Dakota;

"County Agency" means the County Welfare Board in each of the several Counties of the State;

"Applicant" means a person who has applied for aid to the blind;

"Recipient" means a person who has received assistance under the terms of the Act;

"Assistance" means money payments to blind persons in need as provided in this Act;

"Ophthalmologist" means a physician licensed to practice medicine in this State and who is actively engaged in the treatment of diseases of the human eye.

"Supplementary Services" means services other than money payments to blind persons in need, including payments toward the funeral expenses of such persons as provided in this Act.

2. ELIGIBILITY FOR ASSISTANCE TO THE NEEDY BLIND.] Assistance shall be given under this Act to any person who:

- (a) Is a citizen of the United States;
- (b) Has attained the age of 18 years;
- (c) Has resided in the State for not less than one year continuously immediately preceding application for assistance;
- (d) Has no vision or whose vision with correcting glasses is

so defective as to prevent the performance of ordinary activities for which eyesight is essential;

(e) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;

(f) Is not an inmate of or being maintained by any municipal, State or National institution at the time of receiving assistance. An inmate of such institution may, however, make application for such assistance but the assistance, if granted, shall not begin until after he ceases to be an inmate.

(g) Has no child or other relative of sufficient financial ability to support the applicant and responsible under the law for the support of the applicant;

(h) Has not made an assignment or transfer of property so as to render himself eligible for assistance under this Act;

(i) Is not a recipient of Old Age Assistance under the North Dakota Act for Old Age Assistance.

§ 3. AMOUNT OF ASSISTANCE.] The amount of assistance which any recipient shall receive shall be determined with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance with such rules and regulations and directions as the State Agency may find it necessary to prescribe. The amount of assistance shall be sufficient when added to all other income and support of the recipient to provide such person with a reasonable subsistence compatible with decency and health which shall not exceed a maximum of \$40.00 per month.

§ 4. DUTIES OF THE STATE AGENCY.] The State Agency shall:

(a) Administer assistance to the needy blind under this Act.

(b) Take such action, give such direction and promulgate such rules and regulations as may be necessary and desirable for carrying out the provisions of this Act.

(c) Provide for such methods of administration as are found by the Federal Social Security Board to be necessary for the efficient operation of the State plan for aid to the blind and to provide such qualified employees and representatives as may be necessary for that purpose.

(d) Prescribe the form of, and print and supply to the County Agencies blanks for applications, reports, and such other forms as may be necessary or advisable.

(e) Designate the procedure to be followed in securing a competent medical examination for the purpose of determining blindness in the individual applicant for assistance.

(f) Establish minimum standards for personnel employed by

the State Department in the administration of this Act and make necessary rules and regulations to maintain such standards;

(g) Cooperate with the Federal Government in matters of mutual concern pertaining to assistance to the needy blind, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance;

(h) Make such reports, in such form and containing such information, as the Federal Government may from time to time require and comply with such provisions as the Federal Government may from time to time find necessary to assure the correctness and verification of such reports;

(i) Publish an annual report and such interim reports as may be necessary;

(j) Promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for assistance under this Act;

(k) Designate a suitable number of ophthalmologists, duly licensed to practice medicine in North Dakota and actively engaged in the treatment of diseases of the human eye, to examine applicants and recipients of assistance to the blind;

(l) Fix and pay to ophthalmologists fees for examinations of applicants.

(m) Develop or cooperate with other agencies in developing measures for the prevention of blindness, the restoration of eyesight, and the vocational adjustment of blind persons.

§ 5. APPLICATION FOR ASSISTANCE TO THE NEEDY BLIND.] Application for assistance under this Act shall be made to the County Agency of the County in which the applicant resides.

The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the State Agency and shall be verified by the oath of the applicant. Such application shall contain a statement of the amount of property, both personal and real, which the applicant owns or in which he has an interest, and of all income which he may have at the time of the filing of the application, and such other information as may be prescribed by the State Agency.

§ 6. INVESTIGATION OF APPLICATION.] Whenever a County agency receives an application for aid to the blind, an investigation shall be made promptly of the circumstances of the applicant to ascertain the facts supporting the application and such other information as may be required by the State Agency.

In determining the amount of assistance due account shall be taken of any income and property of the applicant and any support which the applicant may receive from other sources.

The applicant shall be entitled to appear before the County

Agency and submit both oral and documentary evidence. All documentary evidence submitted shall be made a part of the files in the case of the applicant and on appeal to, or review by the State Agency, such documentary evidence shall be considered by the State Agency.

The County Agency and the State Agency and the officers and authorized employees thereof authorized to make investigations under this Act shall have the power to conduct examinations, require the attendance of witnesses and the production of books, records and papers, and may make application to the District Court of the County to compel the attendance of witnesses and the production of such books, records and papers. The officers and employees designated by the County Agency or the State Agency may also administer oaths and affirmations.

§ 7. EXAMINATION BY OPHTHALMOLOGIST.] No application shall be approved until the applicant has been examined by an ophthalmologist designated or approved by the State Department to make such examinations. The examining ophthalmologist shall certify in writing upon forms provided by the State Agency the findings of the examination.

§ 8. DISPOSITION OF APPLICATIONS.] Upon completion of such investigation the County Agency shall determine whether the applicant is eligible for assistance under the provisions of this Act and shall make a written finding in duplicate thereof to the effect that the application be allowed or rejected as the case may be. If the County Agency finds that the application should be allowed it shall set forth in said finding the amount of monthly assistance which the applicant ought to receive. In all cases a copy of the findings of the County Agency shall forthwith be transmitted to the State Agency. If the County Agency finds that the application should be rejected it shall forthwith notify the applicant in writing of its decision, by registered mail, return receipt requested, or by delivery of notice personally to the applicant. The notice to the applicant shall also state that he or she may appeal from the finding of the County Agency to the State Agency within thirty days from the receipt of such written notice and that such appeal may be taken by filing a written notice of appeal with the County Agency and sending one by registered mail addressed to the Executive Director of the Public Welfare Board of North Dakota at Bismarck, North Dakota.

The State Agency may approve, modify or reverse the findings of the County Agency in any case; it may return the application to the County Agency for such further action or proceedings as it may direct; or it may conduct a hearing or make or cause a further investigation to be made and make such final disposition of the application as in its judgment the ends of justice require; but in any case where assistance is withdrawn, revoked or suspended the applicant shall be afforded a fair hearing before the State Agency in the same

manner as a hearing is afforded upon an appeal from the decision of a County Agency rejecting an application for assistance.

§ 9. APPEAL TO THE STATE AGENCY.] The County Agency shall at once report to the State Agency its decision upon each application. If an application is not acted upon by the County Agency within a reasonable time after the filing of the application or if the application is denied or if the applicant deems the allowance insufficient, the applicant may appeal to the State Agency by filing a written notice with the County Agency and mailing a copy of such notice of appeal addressed to the Executive Director of the Public Welfare Board at Bismarck, North Dakota. Where an appeal is taken, the State Agency shall give the applicant an opportunity for a fair hearing. All decisions of the State Agency shall be binding upon the County Agency. The Public Welfare Board of North Dakota may designate one or more members of such Board to hear an appeal. It may also designate some person to act as referee and take and certify evidence to the State Agency. When an appeal is heard before a member or members of the State Agency, or a referee designated by such Agency, such person or persons shall make findings in writing and state the reason why the application should be granted or rejected as the case may be, and report such findings to the State Agency, together with all the evidence upon which the same is based. The State Agency may accept and approve such findings or reverse or modify the same or hear the matter anew or make such disposition of the appeal as the facts and the law warrants; but in each case where the action of the Board results in a denial of assistance or in a denial of the claim of the applicant, in whole or in part, such appellant upon demand shall be afforded a fair hearing before the State Agency.

§ 10. PERIODIC RECONSIDERATION AND CHANGES IN AMOUNT OF ASSISTANCE.] All assistance granted under this Act may be reconsidered at such times as the State Agency shall so require. After such further investigation as the State Agency may direct, the amount of assistance may be changed or assistance may be withdrawn entirely if it is found that the applicant's circumstances have altered sufficiently to warrant such action.

The State Agency may also upon its own motion reconsider any and all assistance grants theretofore made. It may make such additional investigation in any case or in all cases as it may deem necessary. It may consider any application upon which a decision has not been made by the County Agency within a reasonable time and if after such investigation the State Agency determines that the ends of justice so require, assistance may be granted where it has been refused or the amount may be changed or assistance may be withdrawn; but whenever assistance is withdrawn, revoked or suspended, or in any way changed, either pursuant to the findings of the County Agency or the decision of the State Agency, the applicant shall be notified in writing and shall thereupon have the same right and op-

portunity of fair hearing before the State Agency as is afforded upon an appeal from the decision of the County Agency in rejecting an application for assistance.

§ 11. RE-EXAMINATION AS TO EYESIGHT.] A recipient shall submit to a re-examination as to his eyesight when required to do so by the State Agency. He shall also furnish any information required by the State Agency.

§ 12. RESTORATION OF EYESIGHT.] No assistance under this Act shall be granted or continued to any person who refuses medical, surgical or other treatment when his eyesight may be partially or wholly restored by such treatment, and a certificate in writing to that effect is made by the examining ophthalmologist. Any person denied assistance upon this ground may appeal to the State Agency in the manner hereinbefore provided.

§ 13. EXPENSES FOR TREATMENT.] On the basis of the findings of the ophthalmologist's examination as provided in Section 7 of this Act supplementary services may be provided by the State Agency to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight whether or not he is blind as defined in Section 2 of this Act if he is otherwise qualified for assistance under this Act. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the State Agency.

§ 14. PAYMENT FOR BENEFIT OF RECIPIENT.] Whenever a guardian shall have been appointed for any blind person by a Court of competent jurisdiction in the State of North Dakota, the payment of aid to the blind under this plan shall be made to such legal guardian and in such case the legal guardian shall file with the County Agency a report at the end of each quarter, based upon the calendar year, showing the disbursement of the money so received by him as blind assistance payments under this plan.

Where a recipient of aid to the blind has no legal guardian and it shall appear to the County Agency to be necessary, desirable or advisable that such blind person have the benefit of the assistance, guidance and counsel of some competent person in caring for himself, then the County Agency shall recommend, and the State Agency may direct the appointment of some suitable person to so aid, guide, and counsel such blind person.

§ 15. INELIGIBLE FOR OTHER PUBLIC ASSISTANCE.] No person receiving assistance under this plan shall at the same time receive any other public relief from the State or from any municipality or political subdivision thereof, except for temporary medical and surgical assistance, or for vocational training.

§ 16. RECOVERY FROM A RECIPIENT.] If at any time during the continuance of assistance the recipient thereof becomes possessed

of any property or income in excess of the amount stated in the application provided for in Section 5 of this Act, it shall be the duty of the recipient immediately to notify the State Agency of the receipt or possession of such property or income. Any assistance paid after the recipient has come into possession of such property or income in excess of his need shall be recoverable by the State as a debt due to the State.

§ 17. BLIND AID FUND.] The Public Welfare Board of North Dakota shall establish a fund to be known as "North Dakota Blind Aid Fund"; and all moneys that shall be received by the Public Welfare Board of North Dakota for aid to the blind purposes from the State of North Dakota, from the United States under the provisions of the Social Security Act, or from any other source shall be placed in such fund. It shall be and is made the duty of the Treasurer of the Public Welfare Board of North Dakota to receive all such moneys as the same may be paid to him and to deposit the same in such fund; and the Treasurer shall disburse such funds only for aid to the blind and expenses of administration of the aid to the blind plan in North Dakota, and only upon checks or vouchers duly drawn upon him for such purposes pursuant to the directions and authority of the Public Welfare Board of North Dakota.

The Treasurer shall issue in triplicate receipts for all moneys received by him for the "Blind Aid Fund" showing the dates upon, and the sources from, which the moneys are received and shall deliver forthwith one of such receipts to the person, officer, or agency making the payment, one receipt to the Executive Director of the Public Welfare Board of North Dakota, and the other receipt shall be retained by the Treasurer.

§ 18. DISBURSEMENT OF BLIND AID FUND.]

(a) All payments for aid to the blind and for expenses incident to the administration of aid to the blind plan in North Dakota shall be made by checks or warrants drawn on the Blind Aid Fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the Public Welfare Board of North Dakota.

(b) The Treasurer of the State Agency and all persons having any control over or who handle any of the moneys in the Blind Aid Fund shall be bonded in such sum as the Public Welfare Board of North Dakota by resolution shall require.

§ 19. FUNERAL EXPENSES.] On the death of the recipient reasonable funeral expenses, not exceeding \$75.00 may be paid by the State Agency if the estate of the deceased is insufficient to pay the same and the persons legally responsible for the support of the deceased are unable to pay the same.

§ 20. ASSISTANCE NOT ASSIGNABLE.] Assistance granted un-

der this Act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under this Act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 21. NO FEES TO BE CHARGED.] No person shall make any charge or receive any fee for representing an applicant or recipient of assistance to the needy blind in any proceeding hereunder; or with respect to any application, whether such fee or charge be paid by the applicant or recipient or by any other person or persons.

§ 22. RECORDS TO BE CONFIDENTIAL.] All applications and records concerning any applicant shall be confidential and shall be open to inspection only by persons authorized by the State or the United States in connection with their official duties, but any part of the records may be used as a basis for decision on claim of the applicant or recipient and shall be available for inspection by the applicant in any case where he applies for a fair hearing, either by appeal or otherwise.

§ 23. FRAUDULENT ACTS.] Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain by means of a wilfully false statement or representation or by impersonation, or other fraudulent device, assistance to which he is not entitled or assistance greater than that to which he is justly entitled, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$150.00 or be imprisoned in the County jail for not more than one month(s), or be both so fined and imprisoned in the discretion of the Court. In assessing the penalty the Court shall take into consideration, among other factors, the amount of money fraudulently received.

§ 24. LIMITATIONS OF ACT.] All assistance granted under this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act.

§ 25. SEPARABILITY CLAUSE.] If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 26. SHORT TITLE.] This Act may be cited as the "Aid to the Blind Act."

§ 27. REPEAL.] All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 28. EMERGENCY.] Whereas the subject matter of this Act

relates to a matter peculiarly affected by public interest this Act is declared to be an emergency measure and shall be in force and effect immediately upon its passage and approval.

Approved March 16, 1937.

CHAPTER 211

S. B. No. 141—(Committee on Women's and Children's Welfare)

OLD AGE ASSISTANCE ACT

An Act to promote the public welfare by providing for public assistance to aged persons in need; to authorize action to be brought against persons legally responsible for the support of needy aged, to protect recipients of old age assistance in possession of their homesteads, and other assets, by restricting the right to transfer or encumber such homesteads, and to safeguard any values in insurance policies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITIONS AS USED IN THIS ACT.] The masculine pronoun in all cases includes the feminine; the term "State Agency" means the Public Welfare Board of North Dakota; "County Agency" means County Welfare Board in each of the several Counties of the State; "applicant" means a person who has applied for old age assistance; "recipient" means any person who has received assistance under the terms of this Act; "assistance" means money payments to aged persons in need as provided in this Act; and "supplementary services" means services other than money payments to aged persons in need, including payments toward funeral expenses of such persons, as provided in this Act.

§ 2. ELIGIBILITY FOR ASSISTANCE TO THE NEEDY AGED.] Assistance shall be granted under this Act to any person who:

- (a) Is a citizen of the United States;
- (b) Has attained the age of sixty-five years, provided, however, that if at any time the laws of the United States shall authorize funds for old age assistance granted by the United States to the State to be paid to a person less than sixty-five years of age, then the State Agency shall have authority to reduce the age of an applicant for old age assistance to such lesser age;
- (c) Has resided in North Dakota for at least five years during the nine years immediately preceding the application for old age assistance, and has resided therein continuously for one year immediately preceding application;
- (d) Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;
- (e) Is not an inmate of, or being maintained by, any municipal, State or National institution at the time of receiving assistance;

(f) Has no child or other relative of sufficient financial ability to support the applicant and responsible under the law for the support of the applicant;

(g) Has not at any time before or after making application for old age assistance made an assignment or transfer of property for the purpose of rendering himself or herself eligible for old age assistance under this plan.

§ 3. AMOUNT OF ASSISTANCE.] The amount of assistance which any person shall receive shall be determined with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance with such rules, regulations and directions as the State Agency may find it necessary to prescribe. The amount of assistance shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but shall not exceed a maximum of Thirty Dollars (\$30.00) per month. Provided, however, that if at any time the amounts received or to be received by this State from the United States for old age assistance shall be more than \$15.00 per month for each person entitled to the full monthly compensation of \$30 per month under this Act, then the State Agency shall have authority to increase such maximum amount of old age assistance in an amount corresponding to the increase that such increase in the amount received from the Federal Government will permit.

§ 4. DUTIES OF THE STATE AGENCY.] The State Agency shall:

(a) Take such action and make such rules and regulations as may become necessary to entitle the State to receive aid from the Federal Government for assistance to the needy aged in North Dakota.

(b) Administer assistance to the needy aged throughout the State of North Dakota.

(c) Take such actions, give such directions and promulgate such rules or regulations as may be necessary or desirable to carry out the provisions of this Act.

(d) Cooperate with the Federal Government in matters of mutual concern pertaining to assistance to the needy aged, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such assistance and to provide such qualified employees and representatives as may be necessary.

(e) Prescribe the form of and print and supply to the County Agencies blanks for applications, reports and such other forms as it may deem necessary and advisable.

(f) Establish minimum standards of personnel employed by the State Agency and County Agencies in the administration of this

Act and make necessary rules and regulations to maintain such standards.

(g) Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions, rules and regulations as the Federal Government may from time to time find it necessary to make to assure the correctness and verification of such reports.

(h) Publish an annual report and such interim reports as may be deemed necessary.

§ 5. APPLICATION FOR ASSISTANCE.] Application for assistance under this Act shall be made to the County Agency of the County in which the applicant resides. The question as to the residence of an applicant for old age assistance shall be determined by the same rules and regulations as those prescribed by Section 4, Chapter 97, Laws 1933, as amended by Chapter 119, Laws 1935. A County in which an applicant has a residence for poor relief purposes under said Statute will be deemed the County of his residence for the purpose of application for old age assistance.

The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the State Agency and shall be verified by the oath of the applicant. Such application shall contain a statement of the amount of property, both personal and real, which the applicant owns or in which he has an interest, and of all income which he may have at the time of the filing of the application, and such other information as may be prescribed by the State Agency.

§ 6. INVESTIGATION OF APPLICATIONS.] Whenever a County Agency receives an application for old age assistance an investigation shall promptly be made of the circumstances of the applicant to ascertain the facts supporting the application and such other information as may be required by the directions of the State Agency.

In determining the amount of assistance due account shall be taken of any income and property of the applicant and any support which the applicant may receive from other sources. The County Agency and the State Agency and the officers and authorized employees thereof authorized to make investigations under this Act shall have the power to conduct examinations, require the attendance of witnesses and the production of books, records and papers, and may make application to the District Court of the County to compel the attendance of witnesses and the production of such books, records and papers. The officers and employees designated by the County Agency or the State Agency may also administer oaths and affirmations.

§ 7. DISPOSITION OF APPLICATIONS.] Upon the completion of such investigation the County Agency shall determine whether the applicant is eligible for assistance and shall make a written finding in

duplicate to the effect that the application be allowed or rejected as the case may be. If the County Agency finds that the application should be allowed it shall set forth in said finding the amount of monthly assistance which it finds the applicant ought to receive. In all cases a copy of the findings of the County Agency shall forthwith be transmitted to the State Agency. If the County Agency finds that the application for old age assistance should be rejected it shall forthwith notify the applicant in writing of its decision, by registered mail, return receipt requested, or by delivery of notice personally to the applicant. The notice to the applicant shall also state that he or she may appeal from the finding of the County Agency to the State Agency within thirty days from the receipt by the applicant of such written notice and that such appeal may be taken by filing a written notice of appeal with the County Agency and sending one by registered mail addressed to the Executive Director of the Public Welfare Board of North Dakota, Bismarck, North Dakota.

The State Agency may approve, modify or reverse the findings of the County Agency in any case; it may return the application to the County Agency for such further action or proceedings as it may direct; or it may conduct a hearing or make or cause a further investigation to be made and make such final disposition of the application as in its judgment the ends of justice require; but in any case where assistance is withdrawn, revoked or suspended, the applicant must be afforded a fair hearing before the State Board in the same manner as a hearing is afforded upon an appeal from the decision of the County Agency rejecting an application for assistance.

§ 8. RECONSIDERATION OF, AND CHANGES IN, AMOUNT OF ASSISTANCE.] The State Agency may, upon its own motion, reconsider any or all assistance grants theretofore made. It may make such additional investigation in any case, or in all cases, as it may deem necessary. It may consider any application upon which a decision has not been made by the County Agency within a reasonable time. If, after further investigation, the State Agency determines that the ends of justice so require, assistance may be granted where it has been refused; or the amount of assistance may be changed, or assistance may be withdrawn if it is found that the recipient's circumstances have altered sufficiently to warrant such action. But whenever assistance is withdrawn, revoked, suspended or in any way changed, the recipient shall be notified in writing and shall thereupon have the right of a fair hearing before the State Agency in the same manner as a hearing is afforded upon an appeal from the decision of the County Agency rejecting an application for assistance.

§ 9. PAYMENT FOR BENEFIT OF RECIPIENT.] Whenever it shall appear to be necessary or advisable so to do the County Agency may recommend and the State Agency may direct the payment of old age assistance to some suitable person, recommended by the County Agency and designated by the State Agency, for the use of

any applicant who may be under such mental or physical disability as to be unable to care for himself or his money.

§ 10. APPEAL TO THE STATE AGENCY.] The County Agency shall at once report to the State Agency its decision upon each application. If an application is not acted upon by the County Agency within a reasonable time after the filing of the application or if the application is denied or if the applicant deems the allowance insufficient, the applicant may appeal to the State Agency by filing a written notice with the County Agency and mailing a copy of such notice of appeal by registered mail, addressed to the Executive Director of the Public Welfare Board at Bismarck, North Dakota. Where an appeal is taken the State Agency shall give the applicant an opportunity for a fair hearing. All decisions of the State Agency shall be binding upon the County Agency. The Public Welfare Board of North Dakota may designate one or more members of such Board to hear an appeal. It may also designate some person to act as referee and take and certify evidence to the State Agency. When an appeal is heard before a member or members of the State Agency, or a referee designated by such agency, such person or persons shall make findings in writing and state the reason why the application should not be granted or rejected or changed in amount as the case may be, and report such findings to the State Agency, together with all the evidence upon which the same is based. The State Agency may accept and approve such findings or reverse or modify the same or hear the matter anew or make such disposition of the appeal as the facts and the law warrant; but in each case where the action of the Board results in a denial of assistance or in a denial of the claim, of the applicant in whole or in part, such appellant upon written demand shall be afforded a fair hearing before the State Agency. The decision of the State Agency shall be final.

§ 11. COUNTY APPROPRIATION.] The Board of County Commissioners in each County in this State shall appropriate annually such sum as, in its judgment, may be needed to carry out the provisions of this Act, including expenses of administration based upon a budget prepared by the County Welfare Board, after taking into account State aid, and shall include in the tax levy for such County the sum or sums appropriated for that purpose. Should the sum be so appropriated, however, be expended or exhausted during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the Board of County Commissioners.

If the financial condition of any County is such that it cannot make an appropriation or levy a tax for old age assistance or cannot legally issue warrants in an amount sufficient to provide the necessary funds to comply with the provisions of this Act, the Board of County Commissioners shall report such fact to the State Board. The State Board shall make, or cause to be made, a complete investigation of the financial condition of such County and if such investiga-

tion shows that any County cannot appropriate funds or legally issue warrants or levy a tax in an amount sufficient to provide the County's share of funds needed for old age assistance in that County, the State Board may provide either as a grant or as a loan that County's share of funds for old age assistance or so much thereof as may be necessary, from State funds appropriated to the Public Welfare Board for old age assistance.

§ 12. OLD AGE ASSISTANCE FUND.] The Public Welfare Board of North Dakota shall establish a fund to be known as the "North Dakota Old Age Assistance Fund"; and all moneys that shall be received by the Public Welfare Board of North Dakota for old age assistance purposes from the State of North Dakota, from any of the Counties within the State, from the United States under the provisions of the Social Security Act, or from any other source, shall be placed in such fund. It shall be and is made the duty of the Treasurer of the Public Welfare Board of North Dakota to receive all such moneys as the same may be paid to him and to deposit the same in such fund; and the Treasurer shall disburse such funds for old age assistance and expenses of administration of the old age assistance plan in North Dakota, and only upon checks or vouchers duly drawn upon him for such purposes pursuant to the directions and authority of the Public Welfare Board of North Dakota.

The Treasurer shall issue in triplicate receipts for all moneys received by him for the "North Dakota Old Age Assistance Fund" showing the dates upon, and the sources from which the moneys are received and shall deliver forthwith one of such receipts to the person, officer or agency making the payment, one receipt to the Executive Director of the Public Welfare Board of North Dakota, and the other receipt shall be retained by the Treasurer.

§ 13. REIMBURSEMENT PROCEDURE.]

(a) The State Agency shall keep records and accounts in relation to the expenditures for old age assistance in each County in North Dakota; and each County shall reimburse the State Agency for one-half of the amount expended for such assistance in such County in excess of the amount provided by the Federal Government.

(b) Claims for reimbursement shall be presented by the State Agency to the Board of County Commissioners at the end of each calendar month. The Executive Director of the State Agency shall certify to each County the total amount paid for old age assistance to persons in that County, and the County's share of such payments; and the amount so certified shall be paid to the Treasurer of the Public Welfare Board of North Dakota from the County Treasury upon the audit and approval of the County Auditor and the Chairman of the Board of County Commissioners.

§ 14. DISBURSEMENT OF OLD AGE ASSISTANCE FUND.]

(a) All payments for old age assistance and for expenses incident to the administration of this Act shall be made by checks or warrants drawn on the Old Age Assistance Fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the Public Welfare Board of North Dakota.

(b) The Treasurer of the State Agency and all persons having any control over or who handle any of the moneys in the Old Age Assistance Fund shall be bonded in such sum as the Public Welfare Board of North Dakota by resolution shall require.

§ 15. AID EXCLUSIVE OF OTHER AID; FUNERAL EXPENSES.]

No person receiving assistance under this Act shall, at the same time, receive any other assistance from the State or from any political subdivision thereof, except for medical or surgical aid or hospitalization. On the death of a recipient of old age assistance, reasonable funeral expenses shall be allowed and paid, if the estate of the decedent is not sufficient to defray the same and the persons legally responsible for the support of the decedent are unable to pay the same, provided, however, that such expenses shall not exceed Seventy-five (\$75.00) Dollars.

§ 16. ASSISTANCE NOT ASSIGNABLE.]

Assistance granted under this Act shall not be transferable or assignable in law or in equity and none of the money paid or payable under this Act shall be subject to execution, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

§ 17. NO FEES TO BE CHARGED.]

No person shall make any charge or receive any fee for representing an applicant or recipient of old age assistance in any proceeding hereunder; or with respect to any application, whether such fee or charge be paid by the applicant or recipient or by any other person or persons.

§ 18. RECORDS TO BE CONFIDENTIAL.]

All applications and records concerning any applicant shall be confidential and shall be open to inspection only by persons authorized by the State or the United States in connection with their official duties, but any part of the records may be used as a basis for decision on claim of the applicant or recipient and shall be available for inspection by the applicant in any case where he applies for a fair hearing either by appeal or otherwise.

§ 19. RECOVERY FROM A RECIPIENT.]

If, at any time during the continuation of assistance, the recipient becomes the owner of any property or income in excess of the amount stated in the application provided for in Section 5 of this Act, it shall be the duty of the recipient immediately to notify the State Agency of the receipt or possession of such property or income and the State Agency may, after investigation, either cancel the assistance or alter the amount

thereof in accordance with the circumstances. Any assistance paid after the recipient has come into possession of such property or income, and in excess of his needs, shall be recoverable by the State from the estate of the recipient.

§ 20. If at any time during the continuance of any allowance granted under the provisions of this Act it is ascertained that anyone liable for the support and care of the recipient of such assistance is able to afford the necessary support and care of such recipient, and such person so liable for the care and support of such recipient fails and refuses to support and care for such recipient, then there shall exist a cause of action for such assistance against the person or persons liable therefor; which action shall be brought by the States Attorney of such County in the name of the County in which such assistance was granted against such person or persons so liable for the recovery of the amount of money with interest thereon paid to such recipient together with the costs and disbursements of such action. One-half the net amount so recovered shall promptly be paid to the United States and the remaining one-half thereof shall be paid to the Treasurer of the North Dakota Old Age Assistance Fund and credited respectively to the State and the County entitled thereto in proportion to the amounts which the assistance payments represented funds contributed by the State and the County.

§ 21. RECOVERY FROM THE ESTATE.] On the death of any recipient, the total amount of assistance paid under this Act shall be allowed as a preferred claim against the estate of such person in favor of the State, after funeral expenses, not to exceed One Hundred and Twenty-five (\$125.00) Dollars have been paid and after the expense of administering the estate has been paid. No claim shall be enforced against any real estate of a recipient while it is occupied by the surviving spouse or a dependent, nor shall any claim be enforced against any personal property necessary for the support, maintenance or comfort of a surviving spouse or a dependent.

The Federal Government shall be entitled to a share of any amounts collected from any recipient of (or) from their estates, equal to not more than one-half of the amount collected, if required as a condition to Federal financial participation and this amount shall be specified by the State Agency. The amount due the United States shall be paid promptly by the State to the United States Government. The remainder of the amount collected shall be divided equally between the State and the County.

Personal effects, ornaments or keepsakes of the deceased, not exceeding in value Two Hundred (\$200.00) Dollars shall not be subject to the claim against the estate of the recipient, provided for by this Section.

§ 22. The ownership of real or personal property by an applicant for old age assistance or by the spouse of such applicant, either

individually or jointly, or of insurance on the life of the applicant, shall not preclude the granting of old age assistance if the applicant is without funds for his support. But if the applicant is the owner of real property, other than a homestead, of a life insurance policy having a cash surrender value of more than \$300, or of personal property other than household goods, wearing apparel and personal effects, of a value in excess of \$200, then the applicant, as a condition to the grant of assistance, shall be required to transfer such property in trust by appropriate instrument as security for such old age assistance payments as the applicant may thereafter receive. Where an applicant for old age assistance has a policy of insurance or a fraternal beneficiary certificate on his life and where such policy or beneficiary certificate has a surrender value less than that stated or has no cash surrender value at all, the County Agency may recommend and the State Agency may authorize premiums upon such insurance policy or beneficiary certificate to be made out of old age assistance payments and may enter into such arrangement with the insured as shall protect the interest of the insured and the interest of the State and insure repayment to the State, upon the death of the insured, of not less than the premium payments so made after funeral expenses, not to exceed \$125.00, have been paid.

An applicant for old age assistance shall in no case be required to transfer a homestead occupied by him as such unless he or she desires to do so; but a recipient of old age assistance shall not be permitted to encumber or convey such homestead without the approval in writing of the State Agency.

When an application for old age assistance is granted and it appears that the applicant occupies a homestead, which he owns, the State Agency shall cause to be filed in the office of the Register of Deeds of the County in which such homestead is located a statement in writing to the effect that the owner of such homestead is receiving or about to receive old age assistance payments and such written statement shall be signed by the Executive Director of the Public Welfare Board of North Dakota and after the filing of such statement, any instrument of conveyance or encumbrance executed by the applicant for old age assistance who is the owner of such homestead without the approval of the Public Welfare Board of North Dakota shall be null and void.

No fee shall be charged by the Register of Deeds for filing such statement.

§ 23. FRAUDULENT ACTS.] Whoever knowingly obtains, or attempts to obtain by means of a wilfully false statement or representation or by impersonation, or other fraudulent device, assistance to which he is not entitled, or assistance greater than that to which he is justly entitled, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than Five Hundred (\$500.00) Dollars or be imprisoned in the County jail for not more than 12

months, or by both such fine and imprisonment in the discretion of the Court. In assessing the penalty the Court shall take into consideration, among other factors, the amount of money fraudulently received.

§ 24. LIMITATIONS OF ACT.] All assistance granted under this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claim for compensation or otherwise, by reason of his assistance being affected in any way by any amending or repealing Act.

§ 25. SUSPENSION OF ACT.] In the event any provision or provisions of this Act shall be in conflict with any law of the United States hereinafter enacted, prior to the convening of the Legislative Assembly in 1939, under which, if this Act were not so in conflict, the State would be entitled to receive contributions from the United States for old age assistance, upon the enactment of such law of the United States, such provision or provisions of this Act so in conflict with such law of the United States shall be considered as suspended and be non-effective until one month after the convening of the Legislative Assembly in the year 1939 so as to enable the State to qualify and participate in such contributions for old age assistance from the United States.

§ 26. SEPARABILITY CLAUSE.] If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 27. SHORT TITLE.] This Act may be cited as the "Old Age Assistance Act."

§ 28. REPEAL.] All Laws and parts of Laws in conflict with this Act are hereby repealed.

§ 29. EMERGENCY.] Whereas the subject matter of this Act relates to a matter peculiarly affected by public interest, this Act is hereby declared to be an emergency measure and shall be in force and effect from and after May 1st, 1937.

Approved March 16, 1937.

CHAPTER 212**S. B. No. 132—(Committee on Women's and Children's Welfare)****REPEAL OF OLD AGE PENSION LAW 1933**

An Act to repeal Chapter 254, Laws 1933 relating to old age pensions and to cancel all claims or rights of claim on behalf of the State or any County by virtue of pensions paid under said Act and all transfers of property made by any applicant for pension under said Act; declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CLAIMS AND TRANSFERS CANCELLED.] That all claims and rights of claim now existing or that may hereafter arise in favor of the State or any County by virtue of any payments made under said Chapter 254, Laws 1933, or out of moneys arising from taxes levied under such Statute are hereby in all things cancelled and discharged; and that any transfers of property that heretofore may have been made under the provisions of said Act to secure repayment or reimbursement to the State or to any County of moneys arising from taxes levied under said Act are hereby terminated, cancelled and set aside; and the Board of County Commissioners of the respective Counties and the Commissioner of Agriculture and Labor as the case may be, are required to execute proper instruments to cancel of record any instruments of conveyance or any mortgages that may heretofore have been executed and recorded and return to the respective applicants the property so transferred.

§ 2. DISPOSITION OF TAXES.] All moneys now in the State Treasury arising from, or that may hereafter be collected under, the levy for taxes provided for in said Chapter 254, Laws 1933, shall be paid into the Public Welfare Fund of North Dakota and the Public Welfare Board of North Dakota shall in turn cause such funds to be placed in the North Dakota Old Age Assistance Fund and credited to the respective Counties in which the taxes were levied and collected to apply upon the County's share of payments for old age assistance.

§ 3. REPEAL.] Chapter 254, Laws 1933 is hereby in all things repealed.

§ 4. EMERGENCY.] Whereas, Chapter 254, Laws 1933 is out of harmony with the provisions of the Social Security Act and does not furnish any substantial basis for aid to the needy aged; but such aid is being furnished by virtue of an old age assistance plan formulated and set up by the Public Welfare Board of North Dakota, under Chapter 221, Laws 1935, and approved by the Social Security Board, therefore it is declared that an emergency exists and this Act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 213

H. B. No. 357—(Freitag)

WARRANTS FOR EMERGENCY POOR RELIEF

An Act to apply and make applicable the provisions of the House Bill No. 32 of the Twenty-fifth Legislative Assembly and Chapter 195 of the Laws of 1935 as amended by House Bill No. 32 aforesaid, to "Warrants for Emergency Poor Relief" issued pursuant to Chapter 120 of the Laws of 1935 and issued prior to January 1st, 1939.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Chapter 195 of the Session Laws of the State of North Dakota for 1935 relating to funding and refunding indebtedness of municipalities, and all Acts amendatory thereto, including House Bill No. 32 of the Twenty-fifth Legislative Assembly of the State of North Dakota, 1937, together with all of the terms and conditions and provisions thereof, shall be applicable to and include all warrants for emergency poor relief issued under and pursuant to Chapter 120 of the Laws of 1935, and including all warrants issued thereunder, prior to the first day of January, 1939.

§ 2. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 9, 1937.

CHAPTER 214

H. B. No. 199—(Morris, O. C. Olson and Schauss)

RELIEF ACT

An Act making an appropriation for relief to destitute and necessitous persons defining the powers and duties of the Public Welfare Board in relation thereto; providing for allocation of funds to Counties for relief purposes; repealing all Acts and parts of Acts in conflict with this Act; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Economic conditions which led to the adoption by 1935 Legislative Assembly of the policy of providing State grants to Counties to assist County Governments in caring for destitute or necessitous persons have not improved to such an extent as to warrant abandonment of such policy. Either the State or its political subdivisions, acting independently or together, must provide means of alleviating distress and suffering brought about by continued drought and crop failure in the rural areas and by unemployment in the urban areas. The financial ability of many County Governments under existing economic conditions has been exhausted. It remains,

therefore, for the State, acting through a centralized agency, to furnish financial aid to the Counties in order to enable them to undertake and carry forward a program of relief during the current biennium and during the ensuing biennium. The furnishing of such relief is hereby declared to be a matter of State concern and necessary to the preservation of public peace, health, and safety.

§ 2. Disbursements under this Act shall be made for the purpose of relieving the distress of destitute and necessitous persons and their families and dependents by furnishing them with means of support compatible with health and decency, also in carrying out such provisions of Chapter 221, Session Laws of 1935, as are not specifically provided for in any appropriation bill enacted by the 1937 Legislative Assembly.

The Public Welfare Board is hereby authorized to make distribution from the amount herein appropriated for relief to destitute and necessitous persons, among the County Governments of North Dakota from month to month after taking into consideration the number of relief cases to be cared for, the ability of each County to finance the cost of necessary relief and other facts which, in the opinion of the Board should be taken into account in order to do justice and equity among Counties.

§ 3. There is hereby established in the State Treasury a special fund to be known as the State Public Welfare Fund which shall consist of (a) such moneys as remain unexpended in the State Public Welfare Fund created and established by Chapter 221, Laws of 1935, which unexpended portion of such fund is hereby transferred to the State Public Welfare Fund created by this Act, (b) such moneys as remain unexpended in the appropriation provided by House Bill No. 1, Laws of 1937, which unexpended portion of such fund is hereby transferred to the State Public Welfare Fund created by this Act, (c) such moneys as may be allocated to the State Public Welfare Fund under the provisions of any Revenue Act of 1935 or of 1937, (d) transfers from the General Fund as provided by Section 6 of this Act, and (e) such other moneys as may be provided by law.

§ 4. Whenever during the biennium ending June 30, 1937, or the biennium ending June 30, 1939, the balance remaining in the State Public Welfare Fund shall prove insufficient to meet the requirements for relief, the State Board of Equalization of North Dakota is hereby authorized and directed to make a levy sufficient to make up such deficiency, and to make a transfer of the amount so levied from the General Fund of the State, to the State Public Welfare Fund; but the levy and transfers so authorized and directed to be made shall in no case exceed the total sum appropriated by Section 5 of this Act, to the State Public Welfare Fund.

§ 5. There is hereby appropriated from the State Public Welfare Fund, created by Section 3 of this Act the sum of \$3,000,000

or so much thereof as may be necessary for the purpose of carrying out and effectuating the purposes of this Act including the payment of the cost of administration for the period beginning March 1, 1937, and ending June 30, 1939.

§ 6. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged invalid or unconstitutional, such adjudication shall not affect, impair, or invalidate the remaining portions of the Act, but shall be confined in its operation to the clause, sentence, paragraph, or part directly involved in the controversy in which such adjudication shall have been made.

§ 7. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 8. EMERGENCY.] This Act is hereby declared an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

REPEAL

CHAPTER 215

H. B. No. 365—(Fitch)

REPEAL MATES AND SEAMEN LAW

An Act to repeal Article 5 of Chapter 68 of the Civil Code (1913 Compiled Laws of the State of North Dakota) relating to Mates and Seamen.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Article 5 of Chapter 63 of the Civil Code (1913 Compiled Laws of the State of North Dakota) relating to Mates and Seamen be and the same is hereby repealed.

§ 2. EMERGENCY.] In view of the recent extensive drought, there apparently is no further need for this law, therefor an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1937.

(NOTE: Emergency failed in Senate.)