

ment of this act. *No such prescription shall be refilled, except with the written or verbal consent of the prescriber, provided that the date of such consent must be recorded, in ink or indelible pencil, upon the original prescription by the pharmacist who refills the said prescription together with the name of said pharmacist, and provided further, that in event of verbal consent it must be direct from the prescriber to the said pharmacist. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof, and the following warning: "USE ONLY AS DIRECTED."*

Approved April 10, 1939.

CHAPTER 194—H. F. No. 1605

An act to appropriate money for the payment of the salary of the Lieutenant Governor and the salary and mileage of the members of the legislature and for the payment of the per diem of the officers and the employees of and all the other expenses of the legislature, including payment for necessary supplies therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Appropriation for legislative expense.—The sum of \$55,000, or so much thereof as may be found necessary, is hereby appropriated from the revenue fund for the payment of the salary of the lieutenant governor and the salary and the mileage of the members of the Legislature and for the payment of the per diem of the officers and the employees of and all the other expenses of the Legislature, including payment for necessary supplies therefor.

Approved April 12, 1939.

CHAPTER 195—H. F. No. 197

An act relating to aid to dependent children and amending the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 8688-3, 8688-6, and 8688-11.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Definitions.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 8688-3, is hereby amended so as to read as follows:

"8688-3. (a) 'State Agency' as used in this act shall mean the State Board of Control.

(b) 'County Agency' as used in this act shall mean the County Board of Public Welfare as established by law.

(c) 'Dependent Child' as used in this act means a child under the age of 18 years who, *if school facilities are available is regularly attending school, if physically able and above the minimum school age, or who is under compulsory school age, or who is physically unable to attend school, or who is over compulsory school age, but through physical or mental disability is unable to be employed, or who is over compulsory school age and unemployed, but where further schooling is inadvisable in the opinion of the county agency and his unemployment is without fault on his part, and who is found to be 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, without public assistance, adequate care and support of such child, and who is living with his mother, stepmother, grandmother, sister, stepsister, aunt or in a place of residence maintained by one or more of such relatives as his or their home.*

(d) 'Continued absence from the home' as used in this act *means the absence from the home of the parent, whether or not entitled to the custody of the child, by reason of being an inmate of a penal institution under a sentence which will not terminate within three months after the date of application for assistance under this act, or a fugitive after escape therefrom, or absence from the home by the parent for a period of at least three months continuous duration together with failure on the part of the absent parent to support the child, provided that reasonable efforts have been made to secure support for such child from the defaulting parent, and, if such child shall have been abandoned in this state, that a warrant for arrest shall have been issued for such abandonment.*"

Sec. 2. Who is entitled to assistance.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 8688-6, is hereby amended so as to read as follows:

"8688-6. Assistance shall be given under this act to any dependent child 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 one year immediately preceding the birth of said child; and whose mother *if she be the applicant* is a citizen of the United States or has declared her intention to become such a citizen. The county responsible for the payment of assistance under this act shall be the county in which said child has resided for the year preceding the application for assistance; provided, however, that if said child has not resided continually in any one county for the year preceding said application, then the county in which said child has resided for the longest period of time during said year shall be responsible for the payment of assistance under this act, subject to the provisions of section 11 thereof.

(b) Is living in a suitable home conducted by a family having as far as practicable the same religious faith as the family of the child and meeting the standards of care and health fixed by the laws of this state and rules and regulations of the state agency thereunder.

(c) The ownership by a father or mother of property as follows shall be a bar to any allowance under this act:

(1) Personal property of a reasonable market value in excess of \$300.00, exclusive of appropriate clothing and necessary household furniture and equipment, and of such tools, implements, and domestic animals as in the opinion of the county agency it is expedient to retain for the purpose of reducing the expense or increasing the income of the family; or

(2) Real estate not used as a home, provided that if such real estate *does not produce net income sufficient to meet the family budget* and there is no available market for the sale of such property, or if the price which can be obtained on the prevailing market is not fair and reasonable considering the applicant's interest therein and the possibilities of sale of said property for a greater amount within a reasonable length of time thereafter then, in that event, in the discretion of the county agency, ownership of the same shall not be a bar to an allowance under this act. *Net income shall be the residue after payment from gross income of taxes, insurance, maintenance and interest on encumbrances, if any, on the property, provided that in computing net income the gross income shall not be charged with any expenses toward betterment of the property as improvements or by payment on the principal of a mort-*

gage; provided, further, that the net income thus derived shall be applied on the family budget."

Sec. 3. County Agency to report to state department.—
The 1938 Supplement of Mason's Minnesota Statutes of 1927, Section 8688-11 is hereby amended so as to read as follows:

"8688-11. The county agency shall at once report to the state department its decision upon each application. *Any applicant or recipient aggrieved by any order or determination by the county agency may appeal from such order or determination to the state agency. Such appeal may also be taken if the application is not acted upon within a reasonable time by the county agency. Before making such appeal to the state agency the applicant or recipient shall give written notice to the county agency that he is not satisfied with its decision or its delay in acting upon his application. Upon the filing of such notice of dissatisfaction, the county agency shall make an order fixing the time and place for hearing thereon, which hearing shall be held within the ensuing thirty days. Copies of such order shall be forthwith mailed to the applicant or recipient and the state agency. The county agency may adhere to the decision already made or may modify the same, and copies of such new decision shall be forthwith mailed to the applicant or recipient and the state agency. If the applicant or recipient is then dissatisfied he may, within thirty days after the mailing of such decision, appeal to the state agency as herein provided. The state agency shall upon receipt of such an appeal notify the county agency and review the case, giving the applicant or recipient an opportunity for a fair hearing before such state agency. The state agency may also, upon its own motion, review any decision of the county agency, and may consider any application upon which a decision has not been made by the county agency within a reasonable time. Any applicant aggrieved by a decision of the state agency made upon its own motion shall be granted an opportunity for a fair hearing before the state agency.*

The state agency may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted as in its opinion is justified and in conformity with the provisions of this act. *Any applicant or recipient shall have the right to produce any evidence that he desires and be represented by a friend or counsel at all hearings before any administrative agency considering his case. All decisions of the state agency shall be binding upon the county agency involved and*

the applicant or recipient and shall be complied with by such county agency unless modified or reversed on appeal as herein-after provided.

If a decision or determination by the state agency is not, in the opinion of the county agency or applicant or recipient, in conformity with this act, either may within thirty days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed, by serving a copy of a written notice of such appeal upon the state agency and adverse party and filing the original of such written notice, together with proof of service, with the clerk of the district court of the said county. Such appeal may be brought on for hearing by either party by mailing ten days' written notice stating the time and place of such hearing. Upon serving of such notice, the state agency shall, if demanded, furnish the county agency and applicant or recipient a summary of the issues involved, a copy of all supporting papers, a transcript of any testimony and a copy of its decision. The court shall summarily, upon ten days' written notice, try and determine the said appeal upon the record of the state agency as certified to it and in said determination shall be limited to the issue as to whether the order of the state agency is fraudulent, arbitrary or unreasonable. No new or additional evidence shall be taken on such appeal or introduced by any party to such hearing on appeal in the district court, unless such new or additional evidence, in the opinion of the court, is necessary to a more equitable disposition of the appeal. If the court shall find the order of the state agency fraudulent, arbitrary or unreasonable, the court shall within thirty days make an order declaring the order of the state agency null and void, giving its reasons therefor, and shall order the state agency to take further action in said matter not inconsistent with the determination of the court.

Said matter may be heard by said district court at any general or special term thereof or out of term or in chambers; and in judicial districts having more than one judge, the senior or presiding judge shall hear the same, or if unable to do so, shall refer the matter to some other judge in said district.

The applicant or recipient or the county agency or the state agency may appeal from the order of the district court to the supreme court of the state of Minnesota in the same manner as other appeals in civil actions. No costs or disbursements shall be taxed against any party on appeals to the district court or to the supreme court.

All grants of assistance or aid shall be paid pending the hearing and determination of appeals to the district court or supreme court when such assistance or aid is ordered paid by the state agency."

Approved April 12, 1939.

CHAPTER 196—S. F. No. 910

An act authorizing hospital boards in cities of the fourth class to execute mortgages in certain cases.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Hospital boards may execute mortgages in certain cases.—In all cities of the fourth class where hospital boards have been created, either by home rule charter or legislative enactment, and where the city has obtained title to real estate, subject to a mortgage, by purchase, gift or decree, such hospital boards are hereby authorized and empowered to enter into an agreement of extension of such mortgage or mortgages or to execute and deliver a new note and mortgage upon such premises for the purpose of refinancing the same, by and with the approval of the city council of any such city, provided, that all funds so secured shall be employed exclusively in the payment of principal and interest on such original mortgage and prior liens if any, upon such real estate, including real estate taxes.

Sec. 2. Limitation of act.—The lien of any such mortgage or mortgages so executed by such hospital board shall be limited to the premises therein described and in case of default the same may be foreclosed as provided by statute in case of other real estate mortgages, but otherwise the same shall not constitute a claim against such city.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved April 12, 1939.

CHAPTER 197—S. F. No. 1178

An act relating to tuberculosis sanatoriums amending Mason's Minnesota Statutes of 1927, Section 710, and adding a new provision.