

ment shall be necessary to meet the indicated deficiency, and the proceeds of such tax shall be placed by the State Treasurer in said fund.

Sec. 14. Whenever it shall appear that there are, in said Real Estate Bond Payment Fund, funds which, with the mortgage securities on hand, are more than sufficient to provide for the payment of all bonds and interest thereon outstanding, the excess of such funds requisite for that purpose shall be paid by the State Treasurer to the Bank of North Dakota, if so directed by the Industrial Commission.

Sec. 15. The powers herein granted may be repeatedly exercised and the duties following thereupon shall be likewise repeatedly performed, from time to time as occasion may arise under the terms of this Act; provided, however, that at no time shall the amount of bonds issued and outstanding pursuant to the terms of this Act exceed the total of ten million dollars.

Sec. 16. There is hereby appropriated out of the General Funds of the State, not otherwise appropriated, Ten Thousand Dollars, or as much thereof as may be necessary, to carry out the provisions of this Act. This appropriation is hereby declared to be immediately available upon the passage and approval of this Act.

Sec. 17. This Act is hereby declared to be an Emergency Measure and shall take effect and be in force from and after its passage and approval.

Approved February 25, 1919.

INSURANCE

CHAPTER 155.

(S. B. No. 154—Insurance Committee.)

FRATERNAL BENEFIT SOCIETIES TO ESTABLISH CLASSIFIED MEMBERSHIP

An Act to Authorize Fraternal Benefit Societies to Establish and Maintain Classified Membership.

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

Sec. 1. FRATERNAL SOCIETIES MAY ESTABLISH CLASSIFIED MEMBERSHIP.) Any fraternal society chartered or transacting business in this State is hereby authorized and empowered to establish or maintain separate classes of membership each class having a separate form of contract of similar general plan and character in its purpose; the assets or mortuary collections secured from the member of each class respectively shall be carried and main-

tained separately for such class, and the required reserve of such accumulation of such class, if contract therefor provides for such a fund, shall be set apart and held specifically and separately for the use and benefit of such particular class, and shall not thereafter be mingled with the assets or mortuary collections of any other class of the society.

Approved February 28, 1919.

CHAPTER 156.

(H. B. No. 165—Yeater.)

FRATERNAL BENEFICIARY SOCIETIES.

An Act to Authorize Fraternal Beneficiary Societies to Provide Whole Family Protection.

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

Sec. 1. Any fraternal benefit society authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and sixteen years at next birthday upon application by some person responsible for the support of said child. Any such society may at its option organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society.

The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: Two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred and forty dollars; seven, one hundred and sixty-eight dollars; eight, two hundred dollars; nine, two hundred and forty dollars; ten, three hundred dollars; eleven, three hundred and eighty dollars; twelve, four hundred and sixty dollars; thirteen to fifteen, five hundred and twenty dollars; age sixteen, six hundred dollars. No benefit certificate as to any child shall take effect until after medical examination or inspection, in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "Standard Industrial Mortality Table" or the "English Live Table Number Six" and a rate of interest not greater than four per cent per annum, or upon a higher

standard; provided, that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws, and provided further, that extra contributions may be made if the reserve hereafter provided for become impaired. Any society entering into such insurance agreement shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions, and all the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; provided, that upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the Insurance Commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded, or modified, nor shall the funds be diverted for any use other than as herein specified, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, re-insurance, merger or other change in the condition of the status of the society.

Sec. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

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

Approved February 26, 1919.

CHAPTER 157.

(H. B. No. 93—Strom.)

EXCHANGE OF RECIPROCAL OR INTER-INSURANCE
CONTRACTS.

An Act Authorizing and Regulating the Exchange of Reciprocal or Inter-Insurance Contracts Among Individuals, Partnerships and Corporations; Empowering Corporations to Enter into Such Contracts; Regulating Process in Suits on Such Contracts; Fixing Certain Taxes and Fees and Providing Penalties for Violation of this Act.

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

Sec. 1. That individuals, partnerships and corporations of this State, herein designated subscribers, are hereby authorized to exchange Reciprocal or Inter-Insurance contracts with each other or with individuals, partnerships and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under other provisions of the laws, excepting life insurance.

Sec. 2. That such contracts may be executed by an attorney, agent or other representative herein designated attorney, duly authorized and acting for such subscribers and such attorney may be a corporation. The office or offices of such attorney may be maintained at such place or places as may be designated by the subscribers in the power of attorney.

Sec. 3. That such subscribers so contracting among themselves shall through their attorney file with the Commissioner of Insurance of this State, a declaration verified by the oath of such attorney, or where such attorney is a corporation, by the oath of a chief officer thereof, setting forth:

(a) The name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any name or designation adopted by any attorney or any insurance organization in the United States writing the same class of insurance prior to the adoption of such name or designation by the attorney as to confuse or deceive.

(b) The kind or kinds of insurance to be affected or exchanged.

(c) A copy of the form of policy contract or agreement under or by which such insurance is to be affected or exchanged.

(e) A copy of the form of power of attorney or other authority of such attorney, under which such insurance is to be effected or exchanged.

(e) The location of the office or offices from which such contracts or agreements are to be issued.

(f) That applications have been made for indemnity upon at least One Hundred separate risks aggregating not less than One and One-half Million (\$1,500,000.00) Dollars as represented

by executed contracts or bona fide applications to become concurrently effective; or in case of Employers' Liability or similar classes of insurance, covering a total pay roll of not less than Two and One-half Million (\$2,500,000.00) Dollars.

(g) That there is on deposit with such attorney and available for the payment of losses a sum of not less than Twenty-five Thousand (\$25,000.00) Dollars. Provided, however, that in case of liability or compensation insurance all subscribers shall be engaged in the same class of business and have annual payroll in North Dakota of not less than Four Million (\$4,000,000.00) Dollars and a deposit with such attorney for the payment of losses not less than One Hundred Thousand (\$100,000.00) Dollars.

(h) A financial statement in form prescribed for the annual statement.

Sec. 4. That concurrently with the filing of the declaration provided for by the terms of Section 3, hereof, the attorney shall file with the Commissioner of Insurance of this state an instrument in writing executed by him for said subscribers conditioned that upon issuance of Certificate of Authority provided for in Section 10 hereof, action may be brought in the county in which the property insured hereunder is located, or in which the accident insured against occurred, and service of process may be had upon the Commissioner of Insurance of this state in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time Reciprocal or Inter-Insurance contracts through such attorney. Three copies of such process shall be served and the Commissioner of Insurance shall file one copy, forward one copy to said attorney and return one copy with his admission of service. A judgment rendered in any such case where service of process has been so had upon the Commissioner of Insurance of this state shall be valid and binding against all such subscribers, as their liability may appear and such judgment may be satisfied out of the funds in the possession of the attorney belonging to such subscribers.

Sec. 5. That there shall be filed with the Commissioner of Insurance by such attorney whenever the Commissioner of Insurance shall so require, a statement under the oath of such attorney showing in the case of fire insurance the maximum amount of indemnity upon a single risk and no subscriber shall assume on any single fire insurance risk a greater amount than Ten (10%) per centum of the net worth of such subscriber.

Sec. 6. RESERVE FUND.) There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to fifty per cent of the net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and prorata on those for longer periods. Net annual de-

posits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscriber's agreements, for expenses. Said sum shall at no time be less than Twenty-Five Thousand (\$25,000.00) dollars, and if at any time fifty per cent of the deposits so collected and credited shall not equal that amount, then the subscribers, or their attorney for them, shall make up any deficiency.

Sec. 7. Such attorney shall, within the time limited for filing the annual report by insurance companies transacting the same kind of business, make a report to the Commissioner of Insurance for each calendar year showing the financial condition of affairs at the office where such contracts are issued and shall furnish such additional information and reports as may be required to show the total premiums or deposits collected, the total losses paid, the total amounts returned to subscribers and the amounts retained for expenses, provided, however, that such attorney shall not be required to furnish the names and addresses of any subscribers. The business affairs and assets of such organization shall be subject to visitation and examination by the Commissioner of Insurance of this state at the expense of the office examined. Provided, however, that where the principal office of the attorney is located in another state, the Commissioner of Insurance of this state, in lieu of an examination conducted by his own Department as provided for in this Section, may accept a certified copy of the report of examination made by the Insurance Department of the State where the principal office is located or by the Insurance Department of any other State.

Sec. 8. That any corporation now or hereafter organized under the laws of this State shall, in addition to the rights, powers and franchises specified in its Articles of Incorporation have full power and authority as a subscriber to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred upon the corporations.

Sec. 9. That any attorney who shall exchange any contracts of indemnity of the kind and character specified in this Act, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for same without the attorney first complying with the foregoing provisions, shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not less than One Hundred (\$100.00) Dollars or more than One Thousand (\$1,000.00) Dollars. For the purpose of organization and upon issuance of permit by the Commissioner of Insurance, powers of attorney may be solicited without license, but no attorney, agent or other person shall effect any such con-

tracts of insurance until all the provisions of this Act shall have been complied with.

Sec. 10. That upon compliance with the foregoing requirements and the payment of the fees and taxes provided for in this Act, the Commissioner of Insurance of this State shall issue a Certificate of Authority to the attorney in the name and title mentioned in Sub-division "a", Section 3 of this Act. The Commissioner of Insurance may revoke or suspend any Certificate of Authority issued hereunder in case of breach of any of the conditions imposed by this Act after reasonable notice has been given such attorney in writing so that he may appear and show cause why such action should not be taken. Any attorney who may have procured a Certificate of Authority hereunder may have same renewed annually thereafter at the time provided for the issuance of renewal certificates to insurance companies. Provided, however, that any Certificate of Authority issued shall continue in force and effect until a new Certificate of Authority is issued or specifically refused.

Sec. 11. That such attorney, in lieu of all other taxes and fees, state, county or municipal of whatever character in this state, shall pay annually to the state, on account of the transaction of such business in this state, a license fee of Fifteen (\$15.00) Dollars and a tax of Two and One half (2½%) per centum of the gross premiums or deposits collected from subscribers in this state after deducting therefrom all sums returned to such subscribers or credited to their accounts other than for losses.

Sec. 12. In all other respects companies organized under the provisions of this Act shall be subject to the provisions of the general laws of the State of North Dakota relating to such insurance companies.

Section 13. All Acts and parts of Acts insofar as they are in conflict with the provisions of this Act are hereby repealed.

Approved March 7, 1919.

CHAPTER 158.

(S. B. No. 48—Church.)

STATE BONDING FUND.

An Act to Amend and Re-enact Chapter 62, Laws of North Dakota for the Year 1915; to Create a State Bonding Fund; Providing for the Maintenance and Limiting the Expense Therefor; Prescribing the Duties of the Officers Connected Therewith; Providing for the Payment of Premiums and of Indemnities; Providing for Presentation and Allowance of Claims and Fixing Limitations of Actions Thereon; and Providing for Adjustment of Premiums; Providing for Transfer of Funds and Records and Assuming Liabilities Under the Previous Act.

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

Sec. 1. That Chapter 62 of the Session Laws of North Da-

kota for the year 1915 be amended and re-enacted to read as follows:

Sec. 1. A state bonding fund is hereby established, under the management of the Commissioner of Insurance herein called "Commissioner" for providing a fund for the bonding of all officers, deputies and employees, herein called "public employees", of the State or of any of its subdivisions, who are required by any law of this state to be bonded.

Sec. 2. On or before the time any such public employee shall take office and assume his duties, the State Auditor, County Auditor, City Auditor, village clerk, town clerk or school district clerk, as the case may be, shall report to the Commissioner, the fact of the election or appointment and the amount of the bond required of such public employee and shall therewith remit by check, draft or express or postal money order the premium herein required.

Sec. 3. Such report shall be made in such form and manner as the Commissioner shall prescribe. Unless such report with payment of the premium shall be made within ten days after the service of such public employee has begun, the officer or officers whose duty it shall be to make such report and payment shall, during the term of such default on his or their part, by force of this Act, be liable as sureties on the bond of such public employee, with the same effect and to the same extent as if said bond had been duly signed, approved and filed as otherwise provided by law. In addition thereto any officer guilty of such default shall be liable to punishment for a misdemeanor. No compensation shall be paid to any public employee unless such report and payment shall have been made to the Commissioner or a bond shall have been filed in lieu thereof as provided in this Act.

Sec. 4. The premiums for such insurance shall be twenty-five cents per year per hundred dollars of the amount of the required bond. Such premium shall be paid in advance by the proper authorities of the state or any of its subdivisions from its respective treasurers to the State Treasury, who shall keep the same in a fund to be known as a "state bonding fund" and who shall issue quadruple receipts therefor, one to be filed in his office, and one each, to the official making such payment, the Commissioner and the State Auditor. The minimum premium for each public employee shall be \$2.50 per year. Unless the term of office or employment shall be for a shorter period, payments shall be made for one year or for such longer terms as the Commissioner may prescribe.

Sec. 5. The state and each political subdivision, as the case may be, shall be insured in said state bonding fund according to the provisions of this Act, automatically without issue of any bond or further action on the part of said Commissioner. The provisions of this Act and of any statute requiring a bond, shall

constitute the bond of each and every public employee for the purpose of any law of this state requiring such bond and shall constitute the entire contract between the state bonding fund and the state or its political sub-divisions respectively as the obligee in any such bond.

Sec. 6. The condition of such bond shall be that such public employee, as principal, shall faithfully and impartially discharge and perform the duties of his said office or employment including such duties as are or may be imposed upon him by law, and shall render a true account of all moneys and property of every kind that shall come into his hands as such public employee, and pay over and deliver the same according to law.

Sec. 7. Immediately upon, and in no event later than sixty days after, the discovery of any default or wrongful act on the part of any public employee for which the state bonding fund is or may become liable, the State Auditor, county auditor, city auditor, village, township or school district clerk or the treasurer in case such officer is the auditor or clerk, and any other officer having supervision of such public employee shall, and any person injured by such default or wrongful act may, file with the Commissioner a claim against the State Bonding Fund. Such claim shall contain an abstract of the facts upon which it is based, and shall be verified by the claimant or by some one in his or its behalf.

Sec. 8. In case any public employee shall default or create a liability against said State Bonding Fund, the Commissioner shall notify the State Examiner who shall immediately check the accounts of such public employee and file a report with the Commissioner, stating the amount if any due from the State Bonding Fund. For such service he shall be paid out of the State Bonding Fund the same fees as he is paid for examining the accounts of county officers.

Sec. 9. All claims against the State Bonding Fund shall be audited by the board consisting of the Commissioner of Insurance, the State Examiner, and the Attorney General, and such persons are hereby created a board to audit all claims arising under this Act. Such board shall have authority to prescribe the forms upon which claims shall be presented, and may administer oaths and examine witnesses in connection with claims presented to them. If the said board of audit shall find a claim of any part thereof to be a valid, just and proper charge against the said State Bonding Fund, they shall make and file an order to that effect, stating the amount allowed upon such claim. A brief description of every claim filed against the State Bonding Fund shall be entered by the Commissioner of Insurance in a register provided for that purpose, showing the name of the claimant, the amount, and the character of the claim, the action taken by the board of audit, and the date thereof.

No action shall be maintained against the State Bonding Fund upon any claim whatever, until the claim has been first presented for allowance as hereinbefore provided, and allowance thereof refused; provided, however, that the neglect or refusal of the board of audit to act upon any claim for a period of sixty days after its presentation for allowance, shall be deemed a refusal of the claim.

No action shall be maintained against the State Bonding Fund upon any claim unless such action is brought within one year after the filing of the claim with the Commissioner of Insurance.

All claims and papers connected with claims shall be filed and remain on file with the Commissioner of Insurance; and all claims against the State Bonding Fund shall be paid upon warrants drawn by the Commissioner of Insurance upon the State Treasurer against the State Bonding Fund.

Sec. 10. Any person or corporation injured by the default or wrongful act of any such public employee may sue such public employee and join the State Bonding Fund as co-defendant, and in case judgment is obtained against such public employee, the judgment shall further specify that such judgment shall be paid out of any funds on hand in the State Bonding Fund, or that may thereafter accrue to such fund. In case a judgment is paid out of the State Bonding Fund in any such action, the State Bonding Fund shall be subrogated under the judgment to the right of the judgment creditor to recover against such public employee. In all proceedings to enforce such right of subrogation the Commissioner shall act for and in behalf of the State Bonding Fund, and may in any action or proceeding appeal from any appealable order or from any judgment against said State Bonding Fund the same as is provided for other parties to civil actions.

Sec. 11. If at any time, the Commissioner shall be of the opinion that the interests of the State Bonding Fund are jeopardized by the misconduct or inefficiency of any public employee, he shall make or request the State Examiner to make an examination, and if necessary cause an action for an accounting to be instituted against such public employee for the purpose of requiring a complete disclosure of the business of the office of which such official is an incumbent. Such action shall be brought in the name of the Commissioner as plaintiff and the court may in such action interplead all parties concerned. If at any time the Commissioner deems it advisable, it shall be his duty to make a complaint to the Governor, requesting the Governor to institute an investigation with the purpose of removing from office any defaulting official or any official who so conducts the affairs of his office as to endanger the State Bonding Fund.

Sec. 12. The Commissioner may, after due investigation if

in his judgment the interests of the State Bonding Fund require such action, cancel the liability of the Bonding Fund for the acts of any public employee, to take effect thirty days after written notice of such cancellation. In such case the official whose insurance is cancelled may secure a bond executed either by private surety or by a duly authorized company.

Sec. 13. The Commissioner shall immediately notify the public employee of such cancellation by registered mail, and the public employee shall have twenty days after the receipt of such notice within which to take an appeal from such decision of the commissioner to the district judge of the judicial district in which the public employee resides. The judge of said court shall hear such appeal at a day to be fixed by him not less than ten nor more than thirty days after the filing of the appeal with the clerk. The case shall be tried by the court without a jury. Notice of such appeal shall be served by the appellant upon the Commissioner.

Sec. 14. Any person elected or appointed to office may furnish in lieu of such insurance provided for in this Act, a bond by personal sureties or by a surety company, but no officer or board of the state or of any county, city, town, village, school district or township shall have the right to pay for any such bond or bonds out of any public funds, except for such bonds as are procured to replace insurance cancelled by the Commissioner or to cover the excess over the amount carried in the State Bonding Fund.

Sec. 15. The State Treasurer shall deposit the State Bonding Fund in approved State depositories at the usual rate of interest paid on other funds of the state, subject to check, but whenever there is in such checking account more than \$10,000 the State Treasurer shall deposit same upon time certificates of deposit drawing the same rate of interest as other state funds deposited upon time certificates, or he may invest such funds in securities in which school funds of the state are authorized to be invested.

Sec. 16. The Commissioner shall on or about the first day of January in each year, publish in four newspapers of general circulation within the state a copy of the statement of his work and of the condition of the State Bonding Fund during the preceding year, and he shall make a biennial report to the Governor and the Legislative Assembly containing a detailed statement of the work and the condition of said Bonding Fund during the preceding biennial period.

Sec. 17. The Commissioner may reinsure any part of any liability in excess of \$25,000 upon any one public employee at a cost not exceeding the rate of premium herein provided for, and the expense of such reinsurance shall be paid out of the State Bonding Fund.

Sec. 18. The Commissioner shall have authority to employ such clerical and other assistance and fix their compensation, and incur and pay such other expenses as may be necessary, the cost of which shall be paid from the State Bonding Fund upon warrants drawn by the Commissioner upon the State Treasurer and against the State Bonding Fund and shall in no event exceed ten per cent of the amount received into such fund in any calendar year.

Sec. 19. All the records and funds heretofore acquired, under the provisions of Chapter 62 of the laws of North Dakota for year 1915, shall be hereafter administered under the terms of this Act and all liabilities incurred or assumed under the provisions of said Act are hereby assumed under the provisions of this Act.

Sec. 20. It is hereby made the duty of the Attorney General to act as attorney for the Commissioner in any and all actions and proceedings to which the Commissioner is a party on behalf of the State Bonding Fund.

Sec. 21. Should any section or provision of this Act be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the Act as a whole or any part thereof, other than the part so decided to be unconstitutional.

Sec. 22. All Acts and parts of Acts insofar as they conflict with the provisions of this Act are hereby repealed.

Sec. 23. This Act is hereby declared to be an Emergency Measure and shall be in full force and effect after its passage and approval.

Approved March 5, 1919.

CHAPTER 159.

(S. B. No. 32—Cahill.)

STATE FIRE AND TORNADO FUND.

An Act Creating and Establishing a State Fire and Tornado Fund for Insurance on Public Buildings of the State of North Dakota, and of Cities, Counties and Other Political Subdivisions Thereof; Fixing the Powers and Duties of the Commissioner of Insurance in Connection Therewith; Providing for the Maintenance Thereof; Providing for the Adjustment and Payment of Losses; Authorizing the Commissioner to Employ all Necessary Employees and Incur and Pay Such Other Expense as May be Necessary; Authorizing the Commissioner to Purchase Other Insurance on Large Risks; Limiting the Amount of Expense Which May be Incurred; and Repealing all Acts in Conflict Herewith.

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

Sec. 1. STATE BUILDINGS INSURED.) On and after August 1st, 1919, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state

shall pay out any public moneys or funds on account of any insurance against loss by fire or tornado or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the public buildings, furniture or fixtures or property of any kind whatever belonging to the state except in the manner hereafter provided.

Sec. 2. REPORT OF STATE BUILDINGS.) Within thirty days after the passage of this Act each officer, Board of Control, Board of Regents, or agents of the State of any kind having in charge any public buildings or property of any kind whatsoever belonging to the state, shall report to the Commissioner of Insurance of the state each policy of insurance which shall be then in force upon any property of any kind belonging to the state, showing in said report the property covered by such insurance, date of expiration of policy, rate of insurance and amount paid.

Sec. 3. INSURANCE PROVIDED.) On or between July 1st and August 1st, 1919, and annually thereafter, the Commissioner shall provide for the insurance in the State Fire and Tornado Fund of all state property subject to destruction by fire or tornado, for an amount not to exceed ninety per cent of the actual value of the property, as such value is determined by the Commissioner and the officer or board having control of such property. The Commissioner shall first determine the insurable value of each article of property and shall fix the rate of premium which, in his opinion is the average rate charged by responsible fire and tornado insurance companies doing business in this state and issuing policies on property of similar kinds and exposed to risk of fire or tornado in like manner. He shall then ascertain the amount of insurance upon all such property and provide for such additional insurance in the State Fire and Tornado Fund as may be necessary.

Sec. 4. PREMIUMS TO BE PAID.) The Commissioner of Insurance shall, as soon thereafter as possible, certify to the State Auditor the amount of insurance upon such property to be carried by the state, with a statement showing the amount of premium, also the name and location of each building, and a list of the class of property contained therein, and it shall be the duty of the State Auditor to issue a state warrant on the State Treasurer for the payment of premiums so certified to the Commissioner of Insurance for the benefit of and to the credit of the State Fire and Tornado Fund and which shall be used only for the purposes provided for in this Act.

Sec. 5. REPORT ON OTHER BUILDINGS.) On or before August 1st, 1919, and annually thereafter, each county auditor, city auditor, town, village and school district clerk, as the case may be, shall report to the Commissioner each policy of insurance which shall then be in force upon any property of any kind be-

longing to the county, city, village or school district, whether under the control of such board or council or any other board, officer or agent, describing the property covered by such policy, stating the date of the issue and the expiration thereof, and the amount and rate of insurance and premium thereon.

Sec. 6. INSURANCE PROVIDED. PREMIUM.) From and after August 1st, 1919, the insurance on all property of any such county, city, town, village or school district, shall be provided for by the Commissioner in the manner provided for the insurance of property of the state, except that the amount of insurance and the premiums thereon shall be certified by the Commissioner to the clerk or auditor of the town, village, city, county or school district. Upon receipt of such certification, the amount of premium so certified shall, on or before sixty days from the date of such certification, be remitted by the proper officer to the Commissioner of Insurance to be by him deposited with the State Treasurer to the credit of the State Fire and Tornado Fund and which shall be used only for the purposes provided for in this Act. In case of failure to pay the same within sixty days from the date of such certification, the town, village, city, county or school district official or officials responsible therefor, shall become jointly and severally, as the case may be, personally liable for the same, in an amount equal to double the premium due from such town, village, city, county or school district, and in case of such default it shall be the duty of the State Insurance Commissioner to notify the Attorney General, who shall bring an Action in the courts of this state, or shall direct the State's Attorney of the county in which such delinquency occurs to bring such action, to recover the amount hereinbefore provided for.

Sec. 7. REPLACEMENT OF POLICIES.) The Commissioner shall not cause any policies to be cancelled which are in effect on August 1st, 1919, but shall provide for the insurance in the State Fire and Tornado Fund of buildings and property as hereinbefore stated, increasing the amount of insurance in the State Fire and Tornado Fund at such times as the policies existing on above date may from time to time require so as to maintain at all times the amount of insurance required by the provisions of this Act.

Sec. 8. LOSSES. HOW PAID.) All losses by fire and tornado shall be paid out of the State Fire and Tornado Fund in amount not exceeding the amount of insurance upon the particular risk. The losses upon any building or property insured in the State Fire and Tornado Fund, either totally destroyed or partially damaged by fire or tornado, shall be adjusted by the State Commissioner of Insurance or his representative by him duly authorized. Immediately upon the happening or occasion of any loss or damage, the officer, Board of Control, Board of Regents, agents or agency having charge or control of the property des-

troyed or damaged, shall, by telegram or in writing, notify the Commissioner of Insurance, giving the description of the property, the amount of insurance carried, the probable amount of loss or damage and the probable cause of loss or damage. The persons or agency having control of such damaged property shall not disturb the same until the Commissioner of Insurance or his agent shall have appeared and adjusted the loss or shall have notified them that the information on which an adjustment it to be made has been secured. Adjustments and allowances for loss and damage to insured property shall be paid out of the State Fire and Tornado Fund upon warrants drawn by the Commissioner of Insurance upon the State Treasurer against the State fire and tornado Fund.

However, if at any time sufficient funds are not available in the State Fire and Tornado Fund to cover any loss or damage sustained by fire or tornado, the person or board under whose supervision or charge such building or property might be, shall submit to the Commissioner of Insurance a claim for the amount of the adjustment of loss or damage, made by him, which claim when approved by the Commissioner of Insurance, shall be by him submitted to the state auditing board, and if the state auditing board shall approve the same it shall make it payable ninety days after the end of the next session of the legislature, it shall bear interest at 5 per cent per annum, and the state auditor shall, on the ninetieth day succeeding the last day of the next session of the legislature, draw a warrant upon the State Treasurer, against any fund appropriated by such legislature for that purpose, payable to such person or board, as trustee for the state or political subdivisions which they represent, in the amount of such claim with interest. Thereafter, whenever the State Fire and Tornado Fund shall have acquired a surplus sufficient to pay any or all of the claims paid out of such special funds of the state, the Commissioner of Insurance shall draw his warrants upon the State Treasurer, against the State Fire and Tornado Fund, payable to the State Treasurer, and deliver same to the State Treasurer, and the amount of said warrants shall be credited to the general fund of the State.

Sec. 9. READJUSTMENT OF RATES.) If and when the State Fire and Tornado Fund shall equal ten per cent of the risks carried, it shall be the duty of the Commissioner of Insurance to so adjust the premium to be paid as to reduce the amount to the lowest possible amount consistent with maintainig said Fire and Tornado Fund at said per cent.

Sec. 10. ARBITRATION OF LOSS.) In case an agreement as to the amount of the loss cannot be arrived at between the Commissioner of Insurance and the person or board representing the State or the political subdivision, the Commissioner of Insurance shall choose one disinterested person, and the person or

board representing the state or political subdivision shall choose one disinterested person; the two thus chosen shall choose a third disinterested person, and the three shall constitute a board of arbitration to determine the amount of the loss or damage and the finding of the majority of the three thus appointed, as to the amount of the loss or damage, shall be final and binding upon all parties.

Sec. 11. EXPENDITURES.) The Commissioner may employ the state fire marshal and any of the employes in the department of insurance and such other assistance, and incur such expense as may be necessary to carry out the provisions of this act, but all the expenditures made hereunder for such purposes shall be paid out of the state fire and tornado fund, upon the warrant of the Commissioner of Insurance drawn upon the State Treasurer against the State Fire and Tornado Fund, and such expenditures shall not exceed ten per cent of the earned premiums paid into said State Fire and Tornado Fund.

Sec. 12. PROPERTY EXEMPT.) The provisions of this act shall not apply to the property of any town or school district located outside of the incorporated limits of any city or village unless the clerk of the town or school district, at the direction of the town or school board, as the case may be, shall file with the Commissioner written application for such insurance that such town or school district come under the provisions of this Act, and unless such application shall be approved, in writing, by the Commissioner of Insurance.

Sec. 13. LIMITATION OF RISK.) No single risk in an amount greater than one hundred thousand dollars shall be carried by the State Fire and Tornado Fund within the period of five years after this act goes into effect: but the Commissioner of Insurance shall, in all cases of risks exceeding the amount of one hundred thousand dollars, insure such risk, up to one hundred thousand dollars, in the State Fire and Tornado Fund, and all insurance exceeding that amount he shall place with some reliable fire and tornado insurance company or companies. He shall collect from the state or the political subdivision thereof, the entire premium for all of the insurance and deposit it in the State Fire and Tornado Fund, as herein provided, and shall draw his warrant upon the State Treasurer against the State Fire and Tornado Fund for the amount of premium due upon that portion of the insurance placed with such reliable fire and tornado insurance company or companies.

Sec. 14. REPEAL.) All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 6, 1919.

CHAPTER 160.

(S. B. No. 47—Insurance Committee.)

HAIL INSURANCE.

An Act Amending and Re-enacting Sections 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 189A. Compiled Laws of North Dakota, 1913, as Amended by Chapter 166 of the Session Laws for the Year 1915, Establishing a System of Hail Insurance and Hail Insurance Department in the Office of the Commissioner of Insurance; Providing for the Maintenance Thereof and for the Employment and Compensation of a Manager, Chief Inspector, Deputy Inspectors, Adjusters and all Other Help; Levying a Flat Acreage Tax on all Tillable Land and Authorizing the Commissioner to Levy an Indemnity Acreage Tax on all Tillable Land in Crop, which shall be a Lien Upon Such Land, and for the Collection Thereof; Defining the Duties and Compensation of Assessors, the Duties of Treasurers, Auditors and Other Officers; for the Withdrawal of Tillable Land in Crops from the Indemnity Tax; for the Creation of a Hail Insurance Fund; Appropriating all Taxes Levied Herein for the use of Such Hail Insurance Fund; for the Adjustment and Payment of Losses by Hail from Such Fund, and all Other Expenses of the Department; for the Issuance of Warrants; and Appropriation to Carry this Act Into Effect; Providing Penalties and Declaring an Emergency; and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

That Sections 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189 and 189A, Compiled Laws of North Dakota for 1913, as amended by Chapter 166 of the Session Laws of North Dakota for the year 1915, be amended and re-enacted to read as follows:

Sec. 1. DEFINITION.) (a) The term "tillable land" when used in this Act shall mean all land suitable or capable of agricultural cultivation, whether used as such or not, and shall not mean rough, mountainous, timbered, stony, sandy, alkali, swampy or land flooded, to such extent as to be unprofitable for the purpose of agricultural cultivation.

Sec. 2. DEPARTMENT ESTABLISHED.) A Hail Insurance Department of the State of North Dakota is hereby established for the purpose of furnishing indemnity against damage to all growing agricultural crops by hail. And such department shall be under the management, control and supervision of the Commissioner of Insurance, subject to the provisions of this Act.

Sec. 3. COMMISSIONER TO EMPLOY HELP.) The Commissioner of Insurance shall have authority to employ all necessary assistants, to provide for and furnish all necessary supplies, to appoint a manager, subject to the approval of the Governor, and a chief inspector and such other deputy inspectors as may be necessary to carry out the provisions of this Act; to appoint a chief clerk and as many adjusters and assistants as may be necessary to adjust all claims for losses from hail. The Commissioner of Insurance shall designate the duties and fix the com-

pensation of all such employees, and may remove any or all of them with or without cause. Such compensation, together with all other expenditures for the operation and maintenance of the Hail Insurance Department, shall remain within the appropriation and surplus lawfully available in each year for such purposes, and shall not exceed the sum of Fifty Thousand Dollars per annum. The Commissioner of Insurance shall pay all salaries and expenses of the Department after March 1, 1920, and reimburse the general fund of the State, out of the Hail Insurance Fund, for all money appropriated, expended or disbursed on behalf of such Department.

Sec. 4. REPORTS AND RULES.) The Commissioner of Insurance shall keep accurate account of all moneys expended and disbursed by the Department and shall, not later than the first day of July of each year, prepare and file with the Governor a printed report of the activities of said department; and he shall prepare all other forms and blanks necessary or convenient in accomplishing the purposes of this Act. The Commissioner of Insurance shall have power and authority to adopt, establish and promulgate all rules and regulations necessary for the purpose of carrying out the provisions of this Act, and shall cause this Act and the rules established hereunder to be printed and distributed for general information.

Sec. 5. CROPS INSURED.) The crops insured under this Act shall consist of all crops grown on cultivated land actually cropped, subject to and paying the taxes herein specified, provided that no loss shall be allowed or paid for damage to crops after they have been harvested or that occur after the 15th day of September of any year.

Sec. 6. FLAT TAX.) There is hereby levied for the year 1919 and each year thereafter, upon each and every acre of tillable land in this State a flat tax of three cents per annum for the purpose of carrying out this Act; provided that lands used exclusively for public roads, rights of way of common carriers, mining or manufacturing purposes, and lands included within the limits of any incorporated city, town or village, shall be exempt from such tax.

Sec. 7. INDEMNITY TAX.) The Commissioner of Insurance shall, on or before the 10th day of October of each year, ascertain the amount which is required in addition to the amount secured by said flat acreage tax for the total payment of all loss caused by hail to crops insured by the Department, plus the total cost of maintaining and operating said Department, together with a sufficient sum to maintain and operate same for the succeeding year, and shall thereupon, for the purpose of securing and paying the same, levy an indemnity acreage tax sufficient to cover said amount on all actually cultivated and cropped land (except hay and meadow land) not withdrawn from the operation of this

Act, as hereinafter specified; provided that the total amount of said indemnity tax shall not exceed in any one year the sum of fifty cents per acre.

Sec. 8. NOTICE TO COUNTY AUDITOR.) After the Commissioner shall have determined and levied said indemnity acreage tax, he shall forthwith notify the County Auditor of each county of such levy and the County Auditor shall spread such indemnity and flat tax on the tax rolls in a separate column for that purpose. Such tax and flat acreage taxes shall be collected by the Treasurer of said county and shall be kept in a separate fund to be known as the "Hail Insurance Fund."

Sec. 9. DUTY OF ASSESSORS.) It shall be the duty of every county and township assessor in his respective district at the time of listing property for assessment, to return the number of tillable acres in every tract, parcel or sub-division of land subject to taxation, together with the name of the person in whose name the land is taxed, and also the number of acres of such land, if any, in crop or to be sowed or planted to crop during such year, and shall return and file same with the County Auditor of such County on or before the 1st day of June of each year. Such assessor in addition to the compensation allowed by law shall receive the sum of five cents for each one hundred acres or fraction thereof listed by any assessor under the provisions of this Act. Such compensation shall be paid out of the Hail Insurance Fund on vouchers issued by the Commissioner and approved by the State Auditor.

Sec. 10. COLLECTION OF TAXES.) All provisions of law with reference to lien and collection of taxes shall apply to the taxes herein specified. As often as ten per cent of the Hail Insurance tax due in each county shall come to the hands of the County Treasurer, he shall remit same to the State Treasurer and at the same time mail a statement of the amount remitted to the Commissioner of Insurance.

Sec. 11. CROP AFFIDAVIT.) Any owner or his agent or the occupant or tenant of any land insured by the provisions of this Act shall make an affidavit that the land so insured is actually cultivated and in crop or intended to be cultivated and to be put into crop. Such affidavit shall contain a legal description of the land together with the number of acres claimed as cropped land and in case of any loss by hail, such owner shall be bound by said affidavit as to the number of acres cropped. Such affidavit shall be made in duplicate and may be sworn to before the assessor or any person authorized to administer oaths, and shall be left with the assessor, who shall file same with the County Auditor on or before the 1st day of June of each year. If the owner be absent or refuses or neglects to furnish such affidavit the assessor shall certify the number of acres cropped, the description of the said land and the name of the owner, and file

same with the County Auditor, and such owner shall be bound by such certificate as to the facts so certified.

Sec. 12. WITHDRAWAL.) Any owner of land liable to the indemnity tax herein provided for, may at any time prior to the 15th day of June in each year, withdraw any portion or all land owned by such person for the levy of said indemnity tax upon the making of an affidavit in duplicate, giving the legal description of the land, the number of acres withdrawn and stating that he desires to withdraw therefrom, and filing such affidavit with the Commissioner of Insurance, and a copy thereof with the County Auditor: provided that in case said land or any portion thereof is rented, such owner shall first procure the written consent of such tenant for such withdrawal: provided that the owner shall have a first lien upon all crops belonging to the tenant grown upon the land as security for the payment of said tax or the part of such tax properly chargeable against the tenant's share of such crop.

Sec. 13. FILING AFFIDAVITS BY COUNTY AUDITOR.) Each County Auditor shall file and keep the affidavits presented to him by assessors, and shall forward the duplicates thereof on or before the 1st day of July of each year, to the Commissioner of Insurance at Bismarek, together with a tabulated statement showing the total number of acres classified as tillable land and cropped land in his county. Any County Auditor who shall fail or neglect to make returns, statements and reports to the Commissioner of Insurance at the time specified in this Section shall forfeit the sum of Ten Dollars per day during the time he neglects to make such return, statements or reports and it shall be the duty of the Attorney General to proceed to collect the amount of such penalty from any delinquent Auditor.

Sec. 14. PENALTY FOR FALSE AFFIDAVIT.) Any person making a false affidavit or fraudulent affidavit under this Act shall, upon conviction thereof, be guilty of a misdemeanor.

Sec. 15. AMOUNT OF INDEMNITY.) The maximum indemnity to be paid for total loss shall be Seven Dollars per acre: provided that no indemnity shall be allowed to any claimant for the loss of less than ten per cent, and a loss of eighty-five per cent or more shall be deemed a total loss. There shall be no claim allowed for any loss or damage by hail to the crops described in this Act, except for such portion as is traceable to hail.

Sec. 16. NOTICE OF LOSS.) Any person claiming a loss by hail under this Act shall notify the Commissioner of Insurance by registered mail or telegram within five days thereafter. Such notice shall give the legal description of the land; the interest in such crop which he claims; the name and postoffice address of the claimant; the name and postoffice address of the person liable for the tax on the land; the name and postoffice address of any other person claiming any interest in the crop or indem-

nity; the date of the loss and the per cent of the damage claimed. The Commissioner shall, as soon as possible after receiving such notice of loss, direct an official adjuster to visit the place of loss and proceed to estimate and adjust such loss.

Sec. 17. ADJUSTMENT OF CLAIMS.) In making adjustments of claims it shall be the duty of the adjuster to inspect the crops on which damage is claimed and he shall have the authority, if deemed necessary, to call witnesses to testify as to the condition of the crop before and after the loss. It shall be the duty of the adjuster, wherever possible, to secure the written concurrence of the claimant or his legal representative in the award made by the adjuster of the claim, and to immediately forward same to the Commissioner of Insurance. In case the claimant does not concur in the findings and award of the adjuster, the adjuster shall immediately notify the Commissioner of Insurance of such fact and the inspector or deputy inspector shall reinspect the crops claimed to have been damaged, and if upon such re-inspection the insured still refuses to concur in the adjustments as found by the inspector, then the inspector shall appoint one disinterested person and the claimant shall appoint one disinterested person and these two shall appoint a third person, and the finding of a majority of the three so appointed shall be final and binding upon the State Hail Insurance Department and the claimant. If the finding be for more than the amount allowed by the inspector the expenses of such adjustment shall be paid by the Commissioner of Insurance as other expenses of this Department are paid, otherwise the expenses of such adjustment, including witness fees, if necessary, shall be borne by the claimant. The fees to be paid witnesses and arbitrators under this section shall be the same as those allowed to witnesses in civil actions.

Sec. 18. REPORT OF ADJUSTER.) After the final adjustment of every loss the adjuster shall then and there carefully fill out and make a report in duplicate on an adjustment blank, stating the county, township, range, number of section and quarter-section or sub-section thereof, on which crop was damaged or destroyed, also the number of acres and different kinds of grain estimated damaged or destroyed, stating the amount allowed for each separate kind and the name of the insured and that such estimate is true and correct. Such report must be signed by the official adjuster or arbitrators, when arbitration is resorted to, and the person whose loss has been adjusted with the residence and postoffice address respectively of the persons so signing. The official adjuster shall leave a copy of said report with the insured within a reasonable time, not to exceed five days, forward by registered mail the original of said report to the Commissioner of Insurance.

Sec. 19. DUTY OF MANAGER.) The manager shall devote

all of his time to the work of this department. A chief inspector shall be employed and appointed only if found necessary to successfully carry out the work of adjustment of claims. It shall be the duty of the manager to superintend and standardize the work of the adjusters in the allowance of claims, and where deputy adjusters are employed, to superintend their work.

Sec. 20. DIVERSE INTEREST IN CROP) In case of diverse ownership of interest in any crop upon which damages are allowed, proof of the percentage of interest in the award shall be made to the Commissioner of Insurance by affidavit or other showing under such rules and regulations as the Commissioner may provide, and the award shall be disbursed to the owner of the land, tenant, or different claimants as their interest may appear.

Sec. 21. ISSUANCE OF WARRANTS) Whenever the Commissioner of Insurance shall furnish to the State Auditor a certified list giving the losses sustained, together with the names and addresses, and a written acceptance of the amount allowed any claimant under the provisions of this Act, it shall be the duty of the State Auditor with the consent and approval of the Governor, in anticipation of the payment of the taxes provided therefor, to draw warrants upon the State Treasurer for said amounts in favor of such persons, which amounts shall be charged to the State Hail Insurance Fund. Such warrants to be mailed to the persons entitled thereto as shown by the certified list of the Commissioner of Insurance. All such warrants to be paid from the State Hail Insurance Fund and shall draw interest from date of issue at the rate of six per cent per annum until due and payable. Such warrants shall become due and payable on the call of the State Treasurer.

Sec. 22. INDEMNITY EXEMPT FROM GARNISHMENT.) The indemnity provided for herein shall be exempt from garnishment, levy, execution, attachment and any other legal process whatsoever, but may be assigned in such manner and form as the Commissioner of Insurance may determine.

Sec. 23. HAIL INSURANCE FUND.) All moneys collected under the provisions of this Act shall be deposited with the State Treasurer and shall be kept in a separate fund to be designated "State Hail Insurance Fund," and all expenses of conducting the department and all losses provided for under the provisions of this Act shall be paid out of said fund, as hereinbefore provided; and all of said moneys so collected are hereby appropriated for the purpose of carrying out the provisions of this Act.

Sec. 24. APPROPRIATION.) There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, for the purpose of creating a Hail Insurance Department and the carrying out of this Act, the sum of Fifty Thousand Dollars.

Sec. 25. All funds and records belonging to the State Hail

Insurance Fund and remaining on hand with the State Treasurer and the Commissioner of Insurance shall automatically be transferred to and become a part of the fund created under this Act immediately upon its passage and approval.

Sec. 26. REPEAL.) All Acts and parts of Acts in conflict herewith are hereby repealed.

Sec. 27. EMERGENCY.) This is hereby declared to be an Emergency Measure and shall be in force from and after its passage and approval.

Approved March 1, 1919.

CHAPTER 161.

(H. B. No. 59—Marshall.)

TEACHER INSURANCE AND RETIREMENT FUND.

An Act Amending and Re-enacting Sections 1505, 1507, 1517, 1518, 1520, 1521, 1523, 1524 and 1528 of the Compiled Laws of the State of North Dakota for the Year 1913 and Amending and Re-enacting Sections 1506 and 1513 of the Compiled Laws of the State of North Dakota for the Year 1913 as Amended by Chapter 140 of the Session Laws of the State of North Dakota for the Year 1915, Relating to and Extending the Provisions of the Teachers' Insurance and Retirement Fund.

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

Sec. 1. That Section 1505 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1505. In becoming a teacher in any said public schools after January 1st, 1914, he or she shall be conclusively deemed to join the fund and to undertake and agree to pay such assessments and have such assessments deducted from his or her salary as herein stated. In becoming a teacher in any State Institution after January 1st, 1920, he or she shall be conclusively deemed to join the fund and to undertake and agree to pay such assessments and to have such assessments deducted from his or her salary as herein provided.

Sec. 2. That Section 1506 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Section 2 of Chapter 140 of the Session Laws of North Dakota for the year 1915, be amended and re-enacted to read as follows:

Sec. 1506. Any person employed as teacher in said public schools when this Act takes effect may at any time before January 1st, 1920, elect to join the fund and to come within the provisions of this Act by notifying in writing the Board of Trustees of the Teachers' Insurance and Retirement Fund before January 1st, 1920. Any person employed as a teacher in any State Institution when this Act takes effect, may at any time

before January 1st, 1920, elect to join the fund and to come within the provisions of the Teachers' Insurance and Retirement Fund by notifying in writing the Board of Trustees of such fund before January 1st, 1920.

Sec. 3. That Section 1507 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1507. At the time of giving said notice to the board of trustees, as herein provided, such teacher shall notify the local school board, State Board of Regents or other managing body, in writing of his or her election to come within the provisions of this article and shall authorize said board or other managing body, as a part of said notice, to deduct from each payment of salary due him or her, a sum equal to said per centum of such payment as provided in Section 1504.

Sec. 4. That Section 1513 of the Compiled Laws of the State of North Dakota for 1913, as amended by Section 4, of Chapter 140, of the Session Laws of North Dakota for the year 1915, be amended and re-enacted to read as follows:

Sec. 1513. Between the 15th day of July and the 1st day of August of each year, the County Treasurer shall transmit to the State Treasurer all moneys which he has received from the School Boards and from the Board of County Commissioners, in accordance with the provisions of this Act in the same manner that other moneys are transmitted to the State Treasurer, and shall certify under oath to the Board of Trustees of the Teachers' Insurance and Retirement Fund the amount so received and transmitted to the State Treasurer as herein provided. The Secretary or disbursing officer of the Board of Regents, or other managing body, shall likewise transmit to the State Treasurer all moneys which he has received from the deductions made from the salaries of teachers in accordance with the provisions of this Act, and he shall certify, under oath, to the Board of Trustees of the Teachers' Insurance and Retirement Fund the amount so received and transmitted to the State Treasurer. The State Auditor shall transmit to the State Treasurer all moneys and assessments received from the salaries of the State Superintendent, deputies, assistants and state school inspectors or supervisors. The State Treasurer shall credit all moneys received under the provisions of this Act to the fund designated as the Teachers' Insurance and Retirement Fund.

Sec. 5. That Section 1517 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1517. Any teacher coming from schools or state institutions not included in the provisions of this article, shall pay assessments for said years of service in such schools or state institutions, as provided in Section 1504, based upon his or her

first annual salary in said public schools of the state or state institutions of the state, together with the regular assessments as provided in Section 1504, before receiving any retirement annuity.

Sec. 6. That Section 1518 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1518. Any teacher who may be teaching in said public schools or state institutions and who has complied with the provisions of these sections, may retire and receive the annuity provided for in the following cases:

1. After a period or periods aggregating twenty-five years of service as teacher, of which eighteen years, including the last five, must have been spent in public schools of this state or state institutions of this state, provided that payments by said teacher to the fund shall have amounted to a sum as provided in Section 1504. If said payments shall not have amounted to said sum, the teacher shall pay into the fund the deficiency before receiving said annuity.

2. After fifteen years of service as teacher in the public schools of this state or the state institutions of this state, when said teacher suffers from a permanent mental or physical disability to be determined by said board after an examination by two physicians appointed by said board, provided that payment by said teacher to the fund shall have amounted to a sum as provided in Section 1504. If said payments shall not have amounted to said sum, the teacher shall pay into the fund the deficiency before receiving the annuity. The examination fees of such physicians shall be paid by said applicant.

Sec. 7. That Section 1520 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1520. Any person who has complied with the provisions of this article, and desires to retire from active service in said public schools or state institutions, shall apply in writing to the board of trustees of the Teachers' Insurance and Retirement Fund.

Sec. 8. That Section 1521 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1521. Each teacher retiring from the service of said public schools or state institutions, under the provisions of Section 1518 shall annually and for life be entitled to receive as annuity a sum equal to one fiftieth of his or her annual salary for the last five years of service, multiplied by the whole number of years of service as teacher; provided, however, that his said annuity shall not exceed \$750.00 in any one year or be less than \$350.00 in any one year, subject, however, to all the provisions of this article.

Sec. 9. That Section 1523 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1523. Any teacher who shall cease to teach in said public schools or state institutions before receiving any benefit or annuity from the fund shall, if application be made in writing to the Board of Trustees within eighteen months after the date of his or her resignation, be entitled to the return of one-half of the amount, without interest, which shall have been paid into the fund by such teacher. If such teacher should again thereafter teach in said public schools or state institutions, he or she shall, within one year from the date of his or her return to the service of said public schools or state institutions, refund to said fund the amount so returned to said teacher, together with simple interest on said amount (but not to exceed four per cent per annum) for the time said amount was withdrawn from the fund.

Sec. 10. That Section 1524 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1524. The State Treasurer shall pay said annuities quarterly, in September, December, March and June of each year, upon the warrants of the State Auditor issued upon the certificates of the president or secretary of the said board. No payments shall be made prior to September, 1921, to any teacher employed in any state institution.

Sec. 11. That Section 1528 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 1528. The term "teacher", as used in this article, shall include all persons employed in teaching by any city board of education, school board or other managing body of any city, town, village or rural school district in this state, and all the superintendents and assistant superintendents of said schools, including state and county superintendents and their assistants, all supervisors of instruction, all state school inspectors or supervisors, all principals and assistant principals and special teachers of said schools, and all persons employed in teaching in any state institution and all superintendents and assistant superintendents of state institutions, and all supervisors of instruction, and all principals and assistant principals and special teachers of such institutions, and every person engaged as president of any such institution, provided, however, it shall not include persons connected with any professional school or college of such state institution as lecturers, who are engaged in the practice of their respective professions and with whom teaching is merely an avocation.

The term "state institution" as used in this article shall include the State University of North Dakota, State Agricultural

College, County Agricultural and Training Schools, State Normal Schools, State School of Forestry, State School of Science, North Dakota School for the Blind, North Dakota School for the Deaf, State Institution for Feeble Minded, and State Training School.
Approved March 5, 1919.

CHAPTER 162.

(H. B. No. 56—Malone.)

WORKMEN'S COMPENSATION FUND.

An Act Creating the North Dakota Workmen's Compensation Fund, for the Benefit of Employees Injured and the Dependents of Employees Killed in Hazardous Employment; Fixing the Duties and Liabilities of Employees and Employers; Creating the Workmen's Compensation Bureau and Prescribing its Powers and Duties; Providing for Expenditures Hereunder and Limiting the Amount Thereof; and Making an Appropriation Therefor.

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

Sec. 1. The State of North Dakota, exercising herein its police and sovereign powers, hereby declares that the prosperity of the state depends in a large measure upon the well-being of its wage workers, and, therefore, for workmen injured in hazardous employments, and their families and dependents, sure and certain relief is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this Act: and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as in this Act provided.

Sec. 2. Whenever used in this Act:

"Employment" includes employment by the state and all political subdivisions thereof, and all public and quasi-public corporations therein, and all private employments.

"Hazardous employment" means any employment in which one or more employees are regularly employed in the same business, or in or about the same establishment, except agriculture and domestic service, and any common carrier by steam railroad.

"Employee" means every person engaged in a hazardous employment under any appointment or contract of hire, or apprenticeship express or implied, oral or written, including aliens, and also including minors, whether lawfully or unlawfully employed, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer.

"Employer" means the state and all political subdivisions thereof, and all public or quasi-public corporations therein, and every person, partnership, association and private corporation, in-

cluding any public service corporation, and the legal representative of any deceased employer, or the receiver or trustee of a person, partnership, association or corporation, carrying on a hazardous employment.

“Injury” means only an injury arising in the course of employment, including an injury caused by the wilful act of a third person directed against an employee because of his employment, but shall not include injuries caused by the employee’s wilful intention to injure himself or to injure another. If the employer claims an exemption or forfeiture under this section the burden of proof shall be upon him.

“Partial Disability” includes disfigurement resulting from an injury such as to diminish ability to obtain employment.

“Wages” shall include the market value of board, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as a part of his remuneration.

“Weekly wages” shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding his injury; provided that where, by reason of the shortness of the time during which the workman has been in the employment or the terms of the employment, it is impractical to compute the rate of remuneration, regard may be had to the average weekly earnings which, during the twelve months previous to the injury, were being earned by a person in the same grade of employment at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district. If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with a larger regular wages, only such larger wages shall be taken into consideration in computing his average weekly wages.

“Child” includes step-children, adopted children, posthumous children, and acknowledged illegitimate children, but does not include married children unless dependent. “Brother” and “sister” include step-brothers and step-sisters, half-brothers and half-sisters, and brothers and sisters by adoption, but do not include married brothers nor married sisters unless dependent. All of the above terms and the term “grandchild” include only persons who at the time of the death of the deceased employee are under eighteen years of age or over that age and incapable of self-support. “Parent” includes step-parents and parents by adoption. “Widow” includes only the decedent’s wife living with or dependent for support upon him at the time of his injury. “Widower” includes only the decedent’s husband dependent for support upon her at the time of her injury.

“Adopted” and “adoption” include only legal adoption prior to the time of the injury.

Any term shall include the singular and plural and both sexes where the context so requires.

Sec. 3. On and after July 1, 1919, it shall be the duty of the Workmen’s Compensation Bureau hereinafter created to disburse compensation from the North Dakota Workmen’s Compensation Fund to any employee subject to this Act for injury arising in the course of employment in accordance with the following provisions:

A. Immediately after an injury sustained by an employee and during the resulting period of disability, the North Dakota Workmen’s Compensation Fund shall furnish to such employee such medical, surgical and hospital service and supplies as the nature of the injury may require.

B. During the first seven days of disability the employee shall not be entitled to compensation except as provided in the preceding paragraph, provided that if the period of disability exceeds seven days, compensation shall be paid from the date of injury.

C. If the injury cause total disability, the North Dakota Workmen’s Compensation Fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds per cent of his weekly wages.

D. If the injury cause temporary partial disability, the North Dakota Workmen’s Compensation Fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds per cent of his loss in earning capacity.

E. If the injury cause permanent partial disability, the percentage which such disability bears to total disability, taking into consideration the employee’s age and occupation, shall be determined and the North Dakota Workmen’s Compensation Fund shall pay to the disabled employee a weekly compensation equal to sixty-six and two-thirds per cent of his weekly wages for the following periods:

	Weeks
For a one per cent disability.....	5.2
For a ten per cent disability.....	52
For a twenty per cent disability.....	104
For a thirty per cent disability.....	156
For a forty per cent disability.....	208
For a fifty per cent disability.....	260
For a sixty per cent disability.....	312
For a seventy per cent disability.....	364
For an eighty per cent disability.....	416
For a ninety per cent disability.....	468

The bureau shall immediately fix and file its schedule of specific benefits to be allowed for specific injuries. But such schedule shall not be changed more than once in each year. The bureau shall not decrease, but may, however, in any case, for cause shown, increase such specific benefits.

F. The weekly compensation for total disability shall not be more than \$20 nor less than \$6, unless the employee's weekly wages are less than \$6, in which case his weekly compensation shall be the full amount of his weekly wages. The weekly compensation for partial disability shall not be more than \$20. In the case of persons who at the time of the injury were minors or employed in a learner's capacity and who were not physically or mentally defective, the bureau shall, on any review after the time when the weekly wage-earning capacity of such person would probably, but for the injury have increased, award compensation based on such probable weekly wage-earning capacity.

G. If death results from the injury within six years the North Dakota Workmen's Compensation Fund shall pay to the following persons for the following periods a weekly compensation equal to the following percentages of the deceased employee's weekly wages, subject to the modification that no compensation shall be paid where death takes place more than one year after the cessation of disability resulting from such injury, or, if there has been no disability preceding death, more than one year after the injury:

a. To the widow, if there is no child, thirty-five per cent. This compensation shall be paid until her death or marriage. In case of marriage, there shall be paid to her a lump sum equal to 156 weeks' compensation.

b. To the widower, if there is no child, thirty-five per cent if wholly dependent for support upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage.

c. To the widow or widower, if there is a child, the compensation payable under the clause (a) or clause (b) and in addition thereto ten per cent for each child, not to exceed a total of sixty-six and two-thirds per cent for such widow or widower and children. The compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support.

d. To the children, if there is no widow or widower, twenty-five per cent for one child and ten per cent additional for each additional child, not to exceed a total of sixty-six and two-thirds per cent, divided among such children share and share alike. The compensation of each child shall be paid until he dies, marries or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. The

compensation of a child under legal age shall be paid to its guardian.

e. To the parents, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent; if both are wholly dependent, twenty per cent to each; if one is or both are partly dependent, a proportionate amount in the discretion of the Bureau. The above percentages shall be paid if there is no widow, widower or child. If there is a widow, widower or child, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of sixty-six and two-thirds per cent.

f. To the brothers, sisters, grand-parents, and grand-children, if one is wholly dependent upon the deceased employee for support at the time of his death, twenty per cent to such dependent; if more than one are wholly dependent, thirty per cent, divided among such dependents share and share alike; if there is no one of them wholly dependent, but one or more partly dependent, ten per cent divided among such dependents share and share alike. The above percentages shall be paid if there is no widow, widower, child or dependent parent. If there is a widow, widower, child or dependent parent, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, children and dependent parents, will not exceed a total of sixty-six and two-thirds per cent.

g. The compensation of each beneficiary under clause (e) may continue until such dependent parent dies, marries or ceases to be dependent, and the compensation of each beneficiary under clause (f) shall be paid for a period of eight years from the time of the death, unless before that time, he, if a grand-parent, dies, marries or ceases to be dependent, or, if a brother, sister, or grand-child, dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister or grand-child under legal age shall be paid to his or her guardian.

h. Upon the cessation of compensation under this section to or on account of any person, the compensation or the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

i. In case there are two or more classes of persons entitled to compensation under this section and the apportionment of such compensation, above provided would result in injustice, the Bureau may, in its discretion, modify the apportionment to meet the requirements of the case.

j. If any person entitled to compensation under this section whose compensation by the terms of this section ceases upon his marriage, accepts any payments of compensation after his marriage, he shall be guilty of a misdemeanor.

k. In computing compensation in case of death the weekly wages of the deceased shall be considered to have been not more than \$30 nor less than \$18, but the total weekly compensation shall not exceed the weekly wages of the deceased.

H. In case of death or of permanent total or permanent partial disability, and if the Bureau determines that it is for the best interest of the beneficiary, the liability for compensation to such beneficiary may be discharged by the payment of a lump sum equal to the present value of all future payments of compensation computed at four per cent discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality; but in case of compensation to the widow or widower of the deceased employee, such lump sum shall not exceed 416 weeks' compensation. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

I. If death results from the injury within six years the North Dakota Workmen's Compensation Fund shall pay to the personal representative of the deceased employee burial expense not to exceed \$100.

Sec. 4. A workmen's compensation bureau is hereby created in the Department of Agriculture and Labor, consisting of the Commissioner of Agriculture and Labor and two workmen's compensation commissioners, to be appointed by the Governor, who shall devote their entire time to the duties of the Bureau. Prior to April 1, 1919, the Governor shall appoint, and may remove for cause, two workmen's compensation commissioners, one for the term of three years and one for the term of five years, and at the expiration of each of said terms, the commissioner then appointed shall be appointed for a period of five years. The Commissioner of Agriculture and Labor shall be ex-officio head of the Bureau. The other members of the Bureau shall receive a salary of \$2,500 a year.

The Bureau shall be provided with offices in the capitol, or in some other suitable building, in the City of Bismarck, in which its records shall be kept, and it shall also be provided with necessary office furniture, stationery and other supplies. The Bureau shall have a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words, "Workmen's Compensation Bureau—North Dakota—Seal." It shall employ such assistants and clerical help as it may deem necessary, and fix the compensation of all persons so employed; Provided

that all such clerical assistants shall be subject to existing laws regulating the selection, grading and compensation of department clerks. The members of the Bureau and its assistants shall be entitled to receive from the fund their actual and necessary expenses while traveling on the business of the Bureau, but such expenses shall be sworn to by the persons who incurred the same, and shall be approved by the chairman of the Bureau before payment is made.

The Bureau may make necessary expenditures to obtain statistical and other information required for the enforcement of this Act. The salaries and compensation of the members of the Bureau, of the secretary and all actuaries, accountants, inspectors, examiners, experts, clerks, physicians, stenographers and other assistants, and all other expenses of the Bureau herein authorized, including the premium to be paid by the State Treasurer for the bond to be furnished by him, shall be audited and paid out of the Workmen's Compensation Fund and the appropriation herein made in the manner prescribed for similar expenditures in other departments or branches of the state service, provided, however, the same shall not exceed in any one year the sum of Fifty Thousand Dollars.

The Bureau may make rules not inconsistent with this Act for carrying out the provisions of this Act. Process and procedure under this Act shall be as summary and simple as reasonably may be. The Bureau shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than as herein provided; but may make investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of this Act. The Bureau or any member thereof, shall have the power to subpoena witnesses, administer oaths, and to examine such of the books and records of the parties to a proceeding as relate to the questions in dispute, and shall file a report of the same in their office. The Bureau shall cause to be printed and furnished free of charge to any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this Act.

The Bureau is hereby vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment subject to this Act as may be necessary adequately to enforce and administer all laws and regulations requiring such employment and place of employment to be safe, and shall issue safety regulations whenever necessary.

It is hereby declared to be the intent of this Act to restore to industry those injured in the course of employment. The Bureau shall accordingly assist industrial cripples to obtain appropriate training, education and employment, and may co-op-

erate with the Federal Board of Vocational Education for this purpose.

Sec. 5. Every Employer shall furnish the Bureau upon request all information required by it to carry out the purposes of this Act. In the month of July of each year, every employer of the State, carrying on a hazardous employment, as defined in section two, shall prepare and mail to the Bureau at its main office in the City of Bismarck, a statement containing the following information, viz.: the number of employees employed during the preceding year from July 1 to June 30, inclusive; the number of such employees employed at each kind of employment; and the aggregate amount of wages paid to such employees, which information shall be furnished on blanks to be prepared by the Bureau; and it shall be the duty of the Bureau to furnish such blanks to employers free of charge upon request therefor. Every employer receiving from the Bureau any blank, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and to give all the information therein sought, or if unable to do so, he shall give to the Bureau in writing good and sufficient reasons for such failure. The Bureau may require that the information herein required to be furnished be verified under oath and returned to the Bureau within the period fixed by it or by law. The Bureau or any member thereof, or any person employed by the Bureau for that purpose, shall have the right to examine, under oath, any employer, officer, agent or employee thereof for the purpose of ascertaining any information which such employer is required by this Act to furnish to the Bureau. Any employer who shall fail or refuse to furnish to the Bureau the annual statement herein required, or who shall fail or refuse to furnish such other information as may be required by the Bureau under authority of this section, shall be liable to a penalty of five hundred dollars (\$500.00), to be collected in civil action brought against said employer in the name of the state; all such penalties, when collected, shall be paid into the North Dakota Workmen's Compensation Fund and become a part thereof.

All books, records and payrolls of the employers of the State, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the Bureau or any of its traveling auditors, inspectors or assistants, for the purpose of ascertaining the correctness of the wage expenditure, the number of men employed, and such other information as may be necessary for the uses and purposes of the Bureau in its administration of the law. Refusal on the part of any employer to submit his books, records and payrolls for the inspection of any member of the Bureau or traveling auditor, inspector or assistant presenting written authority from

the Bureau, shall subject such employer to a penalty of one hundred dollars (\$100.00) for each such offense, to be collected by civil action in the name of the State and paid into the Workmen's Compensation Fund to become a part thereof.

Any employer who misrepresents to the Bureau the amount of payroll upon which the premium under this Act is based, shall be liable to the State in ten times the amount of the difference between the premium paid and the amount the employer should have paid. The liability to the State under this section shall be enforced in a civil action in the name of the State, and all sums collected under this section shall be paid into the Workmen's Compensation Fund.

The information contained in the employers' reports to the Bureau shall be for the exclusive use and information of said Bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the Bureau is a party to such action or proceeding; but the information contained in said report may be tabulated and published by the department, in statistical form, for the use and information of the state departments and the public. Any person in the employ of the Bureau who shall divulge any information secured by him in respect to the transactions, property or business of any company, firm, corporation, person, association, co-partnership, or public utility to any person other than the members of the Bureau, while acting as an employee of the Bureau, shall be guilty of a misdemeanor, and upon conviction thereof shall thereafter be disqualified from holding any appointment with the Bureau.

Sec. 6. Every employer subject to this Act shall contribute to the North Dakota Workmen's Compensation Fund in proportion to the annual expenditure of money by such employer for the service of persons subject to the Act, the amount of such payments and the method of making the same to be determined as hereinafter provided.

An employer securing the payment of compensation by contributing premiums to the Workmen's Compensation Fund shall thereby be relieved from all liability for personal injuries or death sustained by his employees and the persons entitled to compensation under this Act shall have recourse therefor only to the North Dakota Workmen's Compensation Fund and not to the employer.

Sec. 7. The Workmen's Compensation Bureau shall classify employments with respect to their degree of hazard and shall determine the risks of the different classifications and shall fix the rates of premium for each of said classifications sufficiently high to provide for the payment of the expenditures of the Bureau, the payment of compensation according to the schedules established by this Act and for the maintenance of adequate

reserves and surplus by the North Dakota Workmen's Compensation Fund to the end that such fund may be kept at all times in an entirely solvent condition.

It shall be the duty of the Workmen's Compensation Bureau, in the exercise of the powers and discretion conferred upon it, ultimately to fix and maintain, for each class of occupation, the lowest possible rates of premium consistent with the payment of the expenditures of the Bureau, the maintenance of a solvent compensation fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury and death that it may authorize to be paid from the North Dakota Workmen's Compensation Fund for the benefit of injured and the dependents of deceased employees, and, in order that said object may be accomplished, the Bureau shall observe the following requirements in classifying occupations and fixing the rates of premium for the risks of the same:

It shall keep an accurate account of the money paid in premiums by each of the several classes of occupations or industries, and the disbursements on account of injuries and death of employees thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the Workmen's Compensation Fund on account of injuries and death of the employees of such employer.

Ten per cent of the money that is paid into the Workmen's Compensation Fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of fifty thousand dollars (\$50,000.00), after which time the sum of five per cent of all the money paid into the Workmen's Compensation Fund shall be credited to such surplus fund, until such time as, in the judgment of the Bureau, such surplus shall be sufficiently large to guarantee the Workmen's Compensation Fund from year to year.

Every employer subject to this Act, shall pay annually into the Workmen's Compensation Fund the amount of premium determined and fixed by the Workmen's Compensation Bureau for the employment or occupation of such employer, the amount of which premium to be so paid by each such employer to be determined by the classification, rules and rates made and published by the Bureau; and a receipt or certificate certifying that such payment has been made shall immediately be mailed to such employer by the Bureau, which receipt or certificate, attested by the seal of the Bureau shall be prima facie evidence of the payment of such premium. The Bureau may by regulation provide that premiums for the several employments, as grouped according to hazard, fall due on different dates so as to distribute the business of the Workmen's Compensation Fund as evenly as possible throughout the year.

In the event the amount of premiums collected from any

employer at the beginning of any premium period is ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, an adjustment of the amount of such premium shall be made at the end of such period and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for said period.

In case a subsequent injury occurs to an employee who has sustained another injury not in the same employment, the employer shall not be penalized in his premium rate for any disability in excess of the degree of incapacity which would have resulted from the later injury if the earlier disability or injury had not existed.

Sec. 8. If an employer shall default in any payment required to be made by him to the Workmen's Compensation Fund, the amount so due shall be collected by civil action in the name of the people of the State as plaintiff, and it shall be the duty of the Workmen's Compensation Bureau to certify to the attorney general of the State from time to time the names and places of business of all employers known to the Bureau to be in default for such payments for a longer period than two weeks, and the amount due from each such employer, and it shall then be the duty of the attorney general forthwith to bring, or cause to be brought against each such employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the Workmen's Compensation Fund, and such employer's compliance with the provisions of this Act requiring payments to be made to the Workmen's Compensation Fund shall date from the time of the payment of said money so collected as aforesaid to the state treasurer for credit to the Workmen's Compensation Fund.

All judgments obtained in any action prosecuted by the Bureau or by the state under the authority of this Act shall be a prior lien over all other judgments and liens except those now in existence.

Sec. 9. Employers who comply with the provisions of Sections six and seven shall not be liable to respond in damages at common law or by statute for injury or death of any employee, wherever occurring, during the period covered by such premiums so paid into the North Dakota Workmen's Compensation Fund, provided that this section shall not apply to minors employed in violation of the law, in which case both remedies shall be applicable.

Sec. 10. The Workmen's Compensation Bureau shall disburse the Workmen's Compensation Fund to such employees of employers as have paid into the said fund the premiums applicable to the classes to which they belong, who have been injured in the course of their employment, wheresoever such injuries

have occurred, or to their dependents in case death has ensued, and such payment or payments to such injured employees, or to their dependents in case death has ensued, shall be in lieu of any and all rights of action whatsoever against the employer of such injured deceased employees.

Sec. 11. Employers subject to this Act, who shall fail to comply with the provisions of Sections six and seven hereof, shall not be entitled to the benefits of this Act during the period of such non-compliance, but shall be liable to their employees for damages suffered by reason of injuries sustained in the course of employment, and also to the personal representatives of such employees where death results from such injuries, and in such action the defendant shall not avail himself or itself of the following common law defenses:

The defense of the fellow-servant rule, the defense of the assumption of risk or the defense of contributory negligence.

And such employers shall also be subject to the provisions of Section eight.

Any employee whose employer has failed to comply with the provisions of Sections six and seven hereof, who has been injured in the course of his employment, wheresoever such injury has occurred, or his dependents in case death has ensued, may, in lieu of proceedings against his employers by civil action in the court, file his application with the Workmen's Compensation Bureau for compensation in accordance with the terms of this Act, and the Bureau shall hear and determine such application for compensation in like manner as in other claims before the Bureau: and the amount of the compensation which said Bureau may ascertain and determine to be due to such injured employee, or to his dependents in case death has ensued, shall be paid by such employer to the person entitled thereto within ten days after receiving notice of the amount thereof as fixed and determined by the Bureau; and in the event of the failure, neglect or refusal of the employer to pay such compensation to the person entitled thereto, within said period of ten days, the same shall constitute a liquidated claim for damages against such employer in the amount so ascertained and fixed by the Bureau, which with an added penalty of fifty per cent, may be recovered in an action in the name of the state for the benefit of the person or persons entitled to the same.

Sec. 12. Any employer carrying on any employment not classed as "hazardous" who complies with this Act and who shall pay into the North Dakota Workmen's Compensation Fund the premiums provided by this Act, shall not be liable to respond in damages at common law or by statute, for injuries or death of any employee, wherever occurring, during the period covered by such premiums, provided the injured employee has remained in his service with notice that his employer has paid into the

Workmen's Compensation Fund the premiums provided by this Act; the continuation in the service of such employer with such notice shall be deemed a waiver by the employee of his right of action as aforesaid. Each such employer paying the premiums provided by this Act into the Workmen's Compensation Fund shall post in conspicuous places about his place or places of business typewritten or printed notices stating the fact that he had made such payment.

Sec. 13. The State Treasurer shall be the custodian of the Workmen's Compensation Fund and all disbursements therefrom shall be paid by him upon vouchers authorized by the Workmen's Compensation Bureau.

The State Treasurer is hereby authorized to deposit any portion of the Workmen's Compensation Fund not needed for immediate use in the same manner and subject to all the provisions of the law with respect to the deposit of state funds by such treasurer; and all interest earned by any such portion of the Workmen's Compensation Fund as may be deposited by the State Treasurer in pursuance of authority herein given, shall be collected by him and placed to the credit of such fund.

The State Treasurer shall give a separate and additional bond in such amount as may be fixed by the Governor, and with sureties to his approval, conditioned for the faithful performance of his duties as custodian of the Workmen's Compensation Fund.

Sec. 14. The Bureau may reinsure any risk or any part thereof and may enter into agreements of reinsurance.

Sec. 15. No compensation under this Act shall be allowed to any person, except as provided in Section eighteen unless he or some one on his behalf shall, within the time specified in this Section make a written claim therefor. Such claim shall be made by delivering it at the office of the Workmen's Compensation Bureau or to any person whom the Bureau may by regulation designate or by depositing it in the mail properly stamped and addressed to the Bureau or to any person whom the Bureau may by regulation designate.

Every claim shall be made on forms to be furnished by the Bureau and shall contain all the information required by the Bureau. Each claim shall be sworn to by the person entitled to compensation or by the person acting on his behalf, and, except in case of death, shall be accompanied by a certificate of the employee's physician stating the nature of the injury and the nature and probable extent of the disability. For any reasonable cause shown the Bureau may waive the provisions of this section.

All original claims for compensation for disability or death shall be made within sixty days after injury or death. For any reasonable cause shown the Bureau may allow original claims for compensation for disability or death to be made at any time within one year.

Sec. 16. After the injury the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a duly qualified physician designated or approved by the Workmen's Compensation Bureau. The employee may have a duly qualified physician designated and paid by him present to participate in such examination. For all examinations after the first the employee shall, in the discretion of the Bureau, be paid his reasonable traveling and other expenses and loss of wages incurred in order to submit to such examination. If the employee refuses to submit himself for or in any way obstructs any examination, his right to claim compensation under this Act shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues and the period of such refusal or obstruction shall be deducted from the period for which compensation is payable to him.

In case of any disagreement between the physician making an examination on the part of the Bureau and the employee's physician the Bureau shall appoint an impartial physician duly qualified, who shall make an examination.

Sec. 17. The Bureau shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final. Provided, however, in case the final action of such Bureau denies the right of the claimant to participate at all in the Workmen's Compensation Fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant, within thirty (30) days after the notice of the final action of such Bureau, may, by filing his appeal in the district court for the county wherein the injury was inflicted, be entitled to a trial in the ordinary way. In such a proceeding, the state's attorney of the county without additional compensation, shall represent the Workmen's Compensation Bureau, and shall be notified by the clerk forthwith of the filing of such appeal.

Within thirty (30) days after filing his appeal, the Appellant shall file a petition in the ordinary form against such Bureau as defendant, and further pleadings shall be had in said cause, according to the rules of civil procedure, and the court shall determine the right of the claimant; and if it determines the right in his favor, shall fix his compensation within the limits prescribed in this Act; and any final judgment so obtained shall be paid by the Workmen's Compensation Bureau out of the Workmen's Compensation Fund in the same manner as awards are paid by such Bureau.

The cost of such proceeding, including a reasonable attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against the unsuccessful party.

Either party shall have the right to prosecute error as in the ordinary civil cases.

Sec. 18. If the original claim for compensation has been made within the time specified in Section fifteen, the Bureau may, at any time, on its own motion or on application, review the award, and, in accordance with the facts found on such review, may end, diminish, or increase the compensation previously awarded, or, if compensation has been refused or discontinued, award compensation.

Sec. 19. Every employer of the state shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within one week after the occurrence of an accident resulting in injury, report thereof shall be made in writing to the Workmen's Compensation Bureau upon blanks to be procured from the Bureau for that purpose. Such report shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, and shall state the time, the nature and cause of injury and such other information as may be required by the Bureau. Any employer who refuses or neglects to make any report required by this Section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for each offense.

Sec. 20. When an injury or death for which compensation is payable under this Act shall have been sustained under circumstances creating in some other person than the North Dakota Workmen's Compensation Fund a legal liability to pay damages in respect thereto, the injured employee, or his dependents, may, at his or their option, either claim compensation under this Act or obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this Act, the North Dakota Workmen's Compensation Fund shall be subrogated to the rights of the injured employee or his dependents to recover against that person, provided, if the Workmen's Compensation Fund shall recover from such other person damages in excess of the compensation already paid or awarded to be paid under this Act, then any such excess shall be paid to the injured employee or his dependents less the expenses and costs of action.

Sec. 21. No agreement by an employee to waive his rights to compensation under this Act shall be valid. No agreement by any employee to pay any portion of the premium paid by his employer into the North Dakota Workmen's Compensation Fund shall be valid, and any employer who deducts any portion of such premium from the wages or salary of any employee entitled to the benefits of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for each offense.

Sec. 22. Any assignment of a claim for compensation under this Act shall be void and all compensation and claims therefor shall be exempt from all claims of creditors.

Sec. 23. Whoever makes, in any affidavit required or in any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than two thousand dollars (\$2,000.00) or by imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 24. Upon the request of the Bureau the Attorney General, or under his direction, the state's attorney of any county shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this Act, or for the recovery of any money due the Workmen's Compensation Fund, or any penalty herein provided for, arising within the county in which he was elected, and shall defend in like manner all suits, actions or proceedings brought against the Bureau or the members thereof in their official capacity.

Sec. 25. Annually on or before the 1st day of December, the Workmen's Compensation Bureau, under the oath of at least two of its members, shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made by it, and a general statement of the causes of accidents leading to the injuries for which the awards were made, a detailed statement of the disbursements from the Workmen's Compensation Fund, and the condition of its respective funds, together with any other matters which the Bureau deems proper to call to the attention of the Governor, including any recommendation it may have to make, and it shall be the duty of the Bureau from time to time to publish and distribute among employers and employees, such general information as to the business transacted by the Bureau as in its judgment may be useful.

Sec. 26. Should any section or provision of this Act be decided by the Courts to be unconstitutional or invalid, the same shall not affect the validity of the Act as a whole or any part thereof other than the part so decided to be unconstitutional.

Sec. 27. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of \$50,000, or as much thereof as may be necessary to put into effect the provisions of this Act. The Workmen's Compensation Bureau shall reimburse the general fund of the state, out of the Workmen's Compensation Fund, for all money appropriated, expended or disbursed on behalf of said Bureau .

Sec. 28. Whereas, an emergency exists, in order that the Bureau hereby created may be in a position to receive contributions to the Insurance Fund and to make disbursements there-

from July 1, 1919, therefore an emergency is hereby declared to exist and this Act shall take effect and be in force immediately after its passage and approval.

Approved March 5, 1919.

INSURANCE COMPANIES

CHAPTER 163.

(H. B. No. 63—Magnuson.)

CAPITAL STOCK REQUIRED BY DOMESTIC AND OTHER STOCK INSURANCE COMPANIES.

An Act to Amend and Re-enact Section 4863 of the Compiled Laws of North Dakota for the Year 1913, Relating to Capital Stock Required by Domestic and Other Stock Insurance Companies.

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

Sec. 1. AMENDMENT.) That Section 4863 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby amended and re-enacted to read as follows:

Sec. 4863. CAPITAL STOCK REQUIRED.) No Stock Company shall be incorporated under this chapter unless it has a capital stock of at least \$250,000, twenty-five per cent of which must be paid in previous to the issuance of any policy and the residue within twelve months from the time of filing the articles of incorporation; provided, that the Commissioner of Insurance may for good cause shown extend the time of payment of such residue for the further period of not to exceed one year. No fire, cyclone, tornado, hail, marine, life or accident insurance company of any other state, territory or nation shall hereafter be admitted to do business in this state unless it has a paid-up capital stock of at least Two Hundred and Fifty Thousand Dollars in available cash assets, over and above all liabilities for losses reported, expenses, taxes and reinsurance of all outstanding risks.

Sec. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 18, 1919.