2. It is the duty of the Department of State Revenue to adopt and use accounting forms which may be adopted and directed by the State Board of Accounts with respect to its accounting system.

In addition to the prescribed duties listed above, it is my further opinion that consultation between the State Board of Accounts and the Indiana Department of State Revenue is not only proper but desirable from a standpoint of good business practice and the safeguarding of interests of the State of Indiana.

OFFICIAL OPINION NO. 37

June 23, 1958

Hon. Wilbur Young, Superintendent
Department of Public Instruction
227 State House
Indianapolis 4, Indiana

Dear Mr. Young:

Your letter of June 12, 1958, has been received and reads as follows:

> "The Commission on General Education has received the following resolution from the Hearing Commission for consideration in the joint operation of Special Oral Training Center Classes by these commissions:
>
> "RESOLUTION CONCERNING ADMISSION OF CHILDREN LESS THAN THREE YEARS OLD TO THE SPECIAL CLASSES ESTABLISHED UNDER CHAPTER 166, ACTS OF 1955.
>
> "Be it resolved that any child whose third birthday falls on or before December 31 of a given year may be considered to have reached the educational age of three and may be admitted to these special classes beginning in the fall of the year in which he will be three years old. Provided, however, that the child meets the other necessary qualifications for admission to this program.

> "Both the Hearing Commission and the Commission on General Education desire your official opinion concerning the legality of this resolution."

Acts of 1955, Ch. 166, Sec. 1, as found in Burns' (1957 Supp.), Section 28-3534, provides in part as follows:

> "The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:
>
> "(1) A 'hearing-handicapped child' means any educable child of sound mind between the ages of three [3] and twenty [20] who has a hearing deficiency to the extent that it is impracticable or impossible for such child to benefit from or participate in the normal classroom program of the public schools in the school district of the residence of such child, and whose education requires a modification of the normal classroom program."

Section 2 of said act, as found in Burns' (1957 Supp.), Section 28-3535, creates a commission to be known as the "hearing commission." Section 3 of said act, as found in Burns' (1957 Supp.), Section 28-3536, provides as follows:

> "The commission shall have the power and authority to coordinate the activities of the state in the education of hearing-handicapped children, and shall cooperate with private organizations whose purpose is to further the educational opportunities of hearing-handicapped children and attempt to coordinate the activities of the state and the activities of such organizations. The commission shall further coordinate the activities of the division of special education in the department of public instruction and the activities of the Indiana state school for the deaf."

Other sections of said act authorize, subject to the approval of said hearing commission and the Commission on General Education of the Indiana State Board of Education, the establishment of oral training units for hearing-handicapped children, with reimbursement by the Indiana State Board of Education to the school corporation operating such program of

the excess cost of the program above the average per capita cost of educating normal children in the school corporation.

Section 10 of said act, as found in Burns' (1957 Supp.), Section 28-3543, is as follows:

> "Participation in the costs and/or reimbursements to school corporations by the state pursuant to the provisions of this act shall be subject to any standard of requirement and rules and regulations of the Indiana state board of education adopted as provided by law."

The adoption of the above Resolution by the Hearing Commission is evidently taken as an initial step toward the adoption of a rule by said commissions on the subject matter contained in such Resolution. Therefore, the only question presented is whether or not such a rule, if adopted by such commissions, would be legal and within their authority.

Under the above-quoted part of Sec. 1 of said statute the Legislature has provided a definition for the term "hearing-handicapped child," wherever used in said act, to mean a child, having the other qualifications, and being "between the ages of three [3] and twenty [20]," unless "a different meaning is plainly required by the context" of said statute.

The above language is clear and unambiguous and the context of said statute does not require a different definition or construction of such language be made.

In 1955 O. A. G., page 207, No. 51, in considering the provisions of the foregoing statute, on page 208 of the Opinion, the following rule was approved and applied:

> "Where the Legislature had defined the meaning of terms used in a statute, and such definition is clear and unambiguous, it is not subject to construction."

In 1957 O. A. G., page 105, No. 25, at page 109, it is stated:

> "It is a well established rule of statutory construction that where a Legislature defines the language it uses, its definition is binding upon the courts and this is so even though the definition does not coincide with the ordinary meaning of the words used and otherwise

the language would have been held to mean a different thing.

Smith v. The State (1867), 28 Ind. 321;

State *ex rel.* Baker v. Grange (1929), 200 Ind. 506, 165 N. E. 239;

Department of State Revenue v. Crown Develop. Co. (1952), 231 Ind. 449, 109 N. E. (2d) 426;

Sutherland, Statutory Construction, 3rd Ed., Vol. 2, Sec. 4814, p. 358."

From the foregoing, I am of the opinion such Resolution and any rule to like effect adopted by either of said commissions would be invalid and not within the authority of said commissions since the statute limits the minimum age of a child admitted to such classes to those who have attained three years of age, and a child less than three years of age is ineligible to attend such classes. If any further authority in this respect is deemed advisable or necessary it should be by an amendment of the statute and not by rule or construction.

OFFICIAL OPINION NO. 38

July 7, 1958

Hon. Joda G. Newsom, Chairman
State Board of Tax Commissioners
Room 404 State House
Indianapolis, Indiana

Dear Mr. Newsom:

You have asked my Official Opinion concerning the charging of fees by county auditors under certain circumstances. Your letter making that request is as follows:

"We respectfully request your official opinion and interpretation in regard to the following excerpt from Section 3, Chap. 307 of the Acts of the 90th session of the Indiana General Assembly approved March 14, 1957.