Mr. William H. Hardwick  
Director of the Budget  
302 State House  
Indianapolis 4, Indiana  

Dear Mr. Hardwick:  

By your letter of January 6, 1958, you have requested my Official Opinion concerning the Acts of 1957, Ch. 286, Sec. 2d. Your letter is as follows:

"Chapter 286, Acts of 1957, Section 2, provides for an appropriation of $16,600,000.00 which is known as the Post War Construction Contingency Appropriation. Subsequent sub-sections of this Act provide that the Budget Committee, with the approval of the Governor, in allocating funds shall consider allocations for certain enumerated purposes, as funds are available. Sub-section D of Section 2 is as follows:

"SEC. 2d. For the reconstruction, repair or replacement of any State owned building and for the necessary equipment, material and supplies used therein, which may be destroyed or damaged by fire or by other disaster, the sum of three million dollars ($3,000,000.00)."

"Because the numeral is used in conjunction with the letter in the printed Act of 1957 rather than the letter appearing as it had in previous years, the question has been raised as to whether or not the $3,000,000.00 mentioned in sub-section D is a separate appropriation or part of the general allocation mentioned in sub-section B and C of Section 2.

"I am therefore requesting an Official Opinion as to whether or not sub-section D is a separate appropriation or is one of the allocations to be considered under the whole appropriation as set out in sub-section A of Section 2 of the Act."
Chapter 286 is an act making appropriations from the State General Fund and certain other special funds.

Section 2a of this act provides for the appropriation of $16,600,000.00, and is as follows:

“There is hereby appropriated from the Post War Construction Fund created by Section 13 of Chapter 357 of the Acts of 1945, the sum of sixteen million six hundred thousand dollars ($16,600,000.00) which appropriation shall be known as the Post War Construction Contingency Appropriation to be used by the State universities and colleges which are supported in whole or in part by State funds, the State mental, penal and benevolent institutions, and any State agency for the purpose of construction, reconstruction, rehabilitation and repair of State properties including equipment for such properties and for the purchase of land.”

Section 2b provides that the Budget Committee, with the approval of the Governor, shall consider allocations for certain enumerated purposes; these allocations to come from the appropriation made in Section 2a.

Section 2c of the act provides for the allocation of an amount not to exceed two hundred thousand dollars ($200,000.00) for certain enumerated purposes and, finally, Section 2d is as quoted in your letter above.

You have asked whether Section 2d is a separate appropriation, or a part of a general allocation. The answer to your question is that the three million dollar ($3,000,000.00) fund provided for by Section 2d is one of the allocations to be considered along with the other allocations provided for in the other subsections of Section 2, and not a separate appropriation.

Section 2d is not, and cannot be, a separate appropriation for the reason that it does not meet any of the tests which our law sets up for the definition of the word “appropriation.” “Appropriation” is the designation of a specific fund together with an assignment of that fund to a specific purpose and the specific authority to spend. 1945 O. A. G., page 504, No. 116; 42 Am. Jur. 747. “Appropriation” has been distinguished from “apportionment” by saying that not only is there a
dividing and assigning of fund which constitutes apportion-
ment, but, in addition, the specific authority to spend. 1955
235, 257 P. 648. "Appropriation" has been defined in the fol-
lowing Indiana cases:

Henderson v. State Board of Monument Comrs.
(1891), 129 Ind. 92, 28 N. E. 127;
Ristine v. State ex rel. Board of Comrs. of Sinking
Fund (1863), 20 Ind. 328.

These cases set up three things which a statute granting
"appropriation" must contain. These are:

1. The sum to be expended or a method of determining
such funds.
2. A person or persons authorized to expend the sum.
3. The purpose for which it is to be expended.

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Section 2d does not contain any of these elements. The mere
earmarking of the sum of three million dollars ($3,000,-
000.00) in Section 2d provides neither a specific sum nor a
method of determining a sum for a specific purpose since the
section is general in its nature in that it mentions "any repair
or replacement of any state owned building."

In order to determine what specific sum might be allocated
for the repair of a specific building, it is necessary to read all
of Section 2. Section 2b provides that the Budget Committee,
with the approval of the Governor, pursuant to the provisions
of the Act, shall consider certain allocations which are set out.
Section 2c also gives the Budget Committee the authority to
allocate funds with the approval of the Governor. Section 2d
is silent as to how funds are to be allocated and by whom, and
in order to give it meaning must be read in conjunction with
the rest of Section 2. Further, Section 11 of the act sets up a
requirement to be followed in the allocation of amounts and is
as follows:

"In the allocation of any of the aforementioned ap-
propriations, pursuant to the provisions of this Act, the
State Budget Committee and the Governor shall require each board, commission or commissioner recommending any building or rehabilitation program to furnish a written proposal showing that such project is essential and necessary to the best interests of the State.”

In summary, Sec. 2a of Ch. 286 of the Acts of 1957 provides for an appropriation of sixteen million six hundred thousand dollars ($16,600,000.00). Subsections b, c, and d, of Section 2 provide the method for the allocation of the funds provided by Section 2a, together with allocations which are to be considered by the Budget Committee in the expenditure of the appropriation provided in Section 2a. All of the specified amounts in subsections b, c, and d are allocations to be considered, and not separate appropriations.

OFFICIAL OPINION NO. 6

January 22, 1958

Mr. Robert L. McMahan
Commissioner, Bureau of Motor Vehicles
126 State House
Indianapolis, Indiana

Dear Mr. McMahan:

I am in receipt of your letter of January 7, 1958, in which you request an Official Opinion on the following question:

Does the Bureau of Motor Vehicles have authority to issue free registration plates to the vehicles operated by the Citizens Gas and Coke Utility of Indianapolis under the Acts of 1945, Ch. 304, Sec. 65, as found in Burns’ (1952 Repl.), Section 47-2802, which section provides that motor vehicles owned by any city and used in the transaction of official business are exempt from vehicle registration fees.

The statute which you call attention to in your letter reads in part as follows:

“Vehicles of the type required to be registered hereunder, owned by * * * any * * * city * * * and