preceding fiscal biennium, nor does it state whether there are special funds such as federal grants included in the funds otherwise available to the commission. Therefore, I am unable to give you a positive answer to your fourth question, except to state that, in my opinion, the above-quoted provisions of the Acts of 1947, Ch. 279, Sec. 21 are applicable and the ultimate answer to said question may be determined by you by applying said statutory provisions to the actual fact pattern involved.

OFFICIAL OPINION NO. 27
July 25, 1957

Mr. T. M. Hindman
State Examiner
State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Hindman:

This is in reply to your recent letter requesting an Official Opinion on the following questions:

"1. Does the provision in the last two paragraphs of section 2e of Chapter 285, Acts 1957, create a new fund in each of the local school corporations, or is it sufficient to receipt such distribution into the Special School Fund of each local school corporation and use for the purpose designated?

"2. Can the amount received in each distribution by the school corporation be used for 'debt service' and 'lease rental payments' or are these purposes included in the exception along with 'gymnasiums'?

"3. If the distribution can be receipted directly into the Special School Fund, could part of such money received be receipted directly into the Bond Fund (for debt service) and/or into the Cumulative Building Fund (for school construction)?

"4. What interpretation do you place on the phrase 'transferred as presently provided by law'? We would appreciate your citing the present statutes that authorize such transfers.
1957 O. A. G.

"5. Can the funds received by local school corporations in such distribution on or before August 1, 1957, be appropriated and expended in 1957, or must such funds be appropriated for use in the ensuing year—1958?"

The Acts of 1957, Ch. 285, Sec. 2e, in part, provides as follows:

"There is hereby appropriated from moneys not otherwise appropriated in the General Fund the sum of seven million dollars ($7,000,000) to the General Commission of the State Board of Education, one-half (⅓) of which amount shall be distributed by the Auditor of State to all school corporations in the State of Indiana on or before August 1, 1957, and one-half (⅓) of which amount shall be distributed as aforesaid on or before August 1, 1958. Each of said annual payments shall be calculated on the basis of the preceding February distribution of tuition support funds to each said school corporation. Provided, however, that the amount received by each school corporation shall be used for school building repairs, construction of school building facilities, except gymnasiums or debt service, including lease rental payments.

"Said amount distributed as herein authorized shall be used, appropriated or transferred as presently provided by law by each said school corporation and shall be included in the budget of said school corporation and appropriated at the same time, in the same manner, and subject to the same provisions as made and required by law in respect to the tax levy which is to be made for the ensuing year: Provided, that the published notice of the budget, levies and rates as required by law shall also contain specific notice of the amount received or to be received by said school corporation pursuant to the provisions of this appropriation, under the style and heading ‘Local Property Tax Relief Fund.’"

1. In answer to your first question, I am of the opinion the above-quoted portions of said statute create a new fund in each of the local school corporations. This fund is to be
known as the "Local Property Tax Relief Fund." This is evidenced by the fact that the moneys appropriated for distribution by the terms of the proviso of the first rhetorical paragraph of said statute as above quoted, are to be used for "school building repairs, construction of school building facilities, except gymnasiums or debt service, including lease rental payments." If the Legislature had intended to make the fund thus appropriated available for the many uses to which the funds in the Special School Fund are available, it would not have restricted the use of such funds for the purposes it designated. Any other holding would ignore the Legislature's express designation of this fund as the "Local Property Tax Relief Fund."

2. Your second question is occasioned by the language contained in the last sentence of the first above-quoted paragraph, being in the nature of a proviso, which reads as follows:

"Provided, however, that the amount received by each school corporation shall be used for school building repairs, construction of school building facilities, except gymnasiums or debt service, including lease rental payments."

The above language might be susceptible to an interpretation which would forbid the use of the appropriation not only for gymnasiums but also for debt service and lease rental payments, as is recognized by your question. Such an interpretation would result in an inconsistent and illogical effect, in that such local school corporations as had already incurred liability, either by way of bonded indebtedness or lease rental payments, for school building facilities would not be accorded any local property tax relief in financing such facilities solely because of the existence of already constructed school building facilities.

In determining legislative intent, an illogical and abnormal interpretation is to be avoided unless the expressed intent of the Legislature requires such a construction. From my investigation, it appears that, immediately prior to the consideration as to whether said funds should be used for the construction of gymnasiums, there existed a version of said language within the Budget Bill substantially as follows:

"Provided, however, that the amount received by each school corporation shall be used for school building
repairs, construction of school building facilities or debt service, including lease rental payments.”

I am reliably informed that, after discussion of the question of the use of said funds for constructing gymnasiums, the words “except gymnasiums” were inserted and isolated by means of parentheses which were inadvertently deleted in the process of enrollment and printing. There is authority to the effect that punctuation, either supplied or omitted by the printer, is not to be given controlling weight to distort the true intent of the Legislature in its adoption of a statute. See: Sutherland, Statutory Construction, 3rd Ed., Vol. 2, Sec. 4939, p. 476. It is noticeable that there appears no conjunctive “and” or “or” between the terms “school building repairs” and “construction of school building facilities,” which supports the belief that “school building repairs, construction of school building facilities, * * * or debt service, including lease rental payments” were all intended to be included within a series of allowable uses for which said funds could be expended. Further, the absence of said conjunctives between the terms “school building repairs” and “construction of school building facilities” is indicative of the prior statement that the words “except gymnasiums” were at one time parenthetically isolated—the Legislature thereby intending to confine the exception solely to “gymnasiums.”

It is therefore my opinion that, in harmony with the legislative intent to afford local property tax relief in connection with school building repairs and the construction of school building facilities, the Legislature intended that said funds may be used also for debt service and lease rental payments—said uses being of a nature kindred to those uses expressly authorized.

3. In view of the conclusion reached in respect to your question number 1, it is believed that your third question is moot.

4. In answer to your fourth question it is my opinion that the phrase “transferred as presently provided by law” means that such proportionate part of the $7,000,000 appropriation, which is distributed to each school corporation, for the “Local Property Tax Relief Fund” may be transferred by the local school corporation to any other fund, provided, of course, that
all statutory and other requirements relating to such transfers are fully complied with. See Acts of 1919, Ch. 59, Section 200, as amended, as found in Burns’ (1951 Repl.), Section 64-1331.

5. In answer to your fifth question, it is noted that the amount distributed “shall be included in the budget of said school corporation and appropriated at the same time, in the same manner, and subject to the same provisions as made and required by law in respect to the tax levy which is to be made for the ensuing year: * * *.” From said language and in harmony with the designated name of this fund, it appears that the Legislature intended said money to be appropriated, used and accounted for according to the same procedures, limitations and subject to the same safeguards as are applicable to funds derived from property tax levies. This conclusion is supported by the following proviso which states:

“Provided, that the published notice of the budget, levies and rates as required by law shall also contain specific notice of the amount received or to be received by said school corporation pursuant to the provisions of this appropriation, under the style and heading ‘Local Property Tax Relief Fund.’” (Our emphasis)

School corporations operate on a school year based on a period from August 1 to August 1, except in first class cities in which the period is from July 1 to July 1, and the state budget has been adopted for the 1957-1958 fiscal year with one-half of this distribution to be made by the State Auditor on or before August 1, 1957, and one-half to be distributed on or before August 1, 1958. The local school budget adopted in August, 1957, will be for the 1958 calendar year. Therefore, it is my opinion, the words “ensuing year” refer to the calendar year beginning January 1, 1958; further, that these funds may not be appropriated and expended in 1957 by the local school corporation except by means of the procedure provided for an emergency appropriation as contained in the Acts of 1919, Ch. 59, Sec. 200, as amended, as found in Burns’ (1951 Repl.), Section 64-1331, as other tax revenues may be appropriated and expended “in cases of casualty or accident or extraordinary emergency” when approved by the State Board of Tax Commissioners, as therein provided.