"'The legislature, by virtue of the inherent police power of the State, is clothed with authority to provide for the repair, improvement and maintenance of public highways, in any manner in its discretion deemed expedient, subject only to constitutional restrictions.'" (Our emphasis)

Any toll roads so constructed by the Toll Road Commission will be open to all members of the public, subject, of course, to the payment of tolls as prescribed by the Commission to be applied to the cost of the toll road project and subject to all valid rules and regulations adopted by the Commission concerning the use of such toll roads.

Therefore, in my opinion, the Public Service Commission of Indiana has the power to require common and contract carriers to obtain the specified certificates and permits as a condition precedent to the operation of motor vehicles for hire upon Indiana toll roads under the jurisdiction of the Indiana Toll Road Commission.

OFFICIAL OPINION NO. 53
December 1, 1955

Miss Ruth V. Kirk, Executive Secretary
State Board of Medical Registration and Examination
538 K. of P. Building
Indianapolis 4, Indiana

Dear Miss Kirk:

Your letter of November 22, 1955, has been received and reads as follows:

"The Board of Medical Registration and Examination of Indiana in executive session on November 16, 1955 directed me to write you as follows:

"The Acts of 1955, Chapter 42, makes provision for the licensing of chiropractors by the Board of Medical Registration and Examination of Indiana. Section 2A provides for educational qualifications and other de-
tailed requirements; Section 3A provides for examination of such applicants; and Section 3B provides that any applicant failing an examination shall be entitled to take a subsequent examination.

"Section 4 of said Act, which section is in the nature of what is commonly called 'grandfather clause,' provides that applicants under said Section 4 be exempt from the educational qualifications of the said Act if the applicants meet other detailed requirements of said section, and also provides that 'said applicants shall be given an examination in accordance with provisions of said Act to determine their ability to practice chiropractic.' Certain applicants have applied for licensure under said Section 4 of said Act and have met requirements thereof except that some of the said applicants have failed to pass the examination given by this Board on June 21, 22, 1955. Grading of such examination papers was completed by the Board and official determination made in executive session on August 31, 1955. Notice of any such failure to pass such examination was given such applicant in September, 1955.

"The Board of Medical Registration and Examination of Indiana respectfully requests that you review said Statute and give your official opinion on the following questions, based upon the foregoing facts, and applicable to such applicants so filing their applications under Section 4 of said Act and then failing to so pass examination:

"1. Are such applicants admitted to examination under Section 4, the grandfather clause, providing for exemption of educational qualifications, and providing for an examination under provisions of said Act to determine their ability to practice chiropractic, entitled to a subsequent examination as stipulated in Section 3B of said Act, under the same terms and conditions as applicants who meet the requirements of Section 2A and Section 3A of said Act?

"2. If the answer to question number 1 is in the affirmative, how many examinations, other than
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the original examination, are such applicants entitled to under such applications?

"3. Are the answers to the foregoing questions influenced by that part of the provisions of said Act as contained in Section 3B thereof, to-wit: 'After June 1, 1956, an applicant failing in an examination shall be entitled to take a subsequent examination at the next regular examination?'"

The Acts of 1955, Ch. 42, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 63-1326 et seq., is a new statute providing for the licensing of chiropractors by your Board. Section 2 of said statute, supra, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 63-1327 makes provision for the educational qualifications of applicants as well as other detailed requirements; Sec. 3, subsection (a), supra, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 63-1328 provides for the examination of applicants, and subsection (b) thereof provides for a subsequent examination for an applicant failing an examination.

Section 4 of said Act, supra, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 63-1329 provides an exception from the general educational requirements of said statute to applicants meeting the detailed requirements specified therein and who apply within the time prescribed. Section 5 of said Act, supra, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 63-1330 contains exceptions from the general requirements of said statute for two classes of applicants for licensure based upon reciprocity. Each of Secs. 4 and 5, supra, are what is generally known as a "grandfather clause." In answer to your questions, we are only concerned with the exceptions contained in Sec. 4, supra.

Section 4 of said Act, supra, reads as follows:

"Applicants who are and have been residents of the state of Indiana and who have practiced chiropractic in the state of Indiana for at least one [1] year immediately prior to December 1, 1954, shall be exempted from the educational requirements as provided by this act: Provided, That application for a license and examination shall be made within sixty [60] days after the
effective date of this act [March 4, 1955]. All such applicants shall be given an examination in accordance with the provisions of this act, to determine their ability to practice chiropractic. Such applicants shall not be discriminated against by the board for their participation in any legal proceedings brought under the provisions of the 'Indiana Medical Practice Act,' where the primary issue was the practicing of chiropractic, as defined in this act, without having a license to practice medicine. Such applications shall be accompanied by the affidavits of two [2] freeholders stating therein that the applicant has practiced chiropractic in this state for a period of at least one [1] year prior to December 1, 1954."

It is to be noted that as referred to in your letter, said Sec. 4, supra, gives exemptions to educational qualifications of applicants, and then provides "said applicants shall be given an examination in accordance with the provisions of said Act to determine their ability to practice chiropractic." However, it must be considered that said section of said statute, supra, does not in and of itself make provision for such examination as to place, subjects, passing grades, what members of the Board shall conduct examination in the various subjects, or any other pertinent information thereon which would make such section of the statute sufficient within itself.

Statutes must be construed as a whole in order to determine the legislative intent.

Snider et al. v. State ex rel. Leap et al. (1934), 206 Ind. 474, 478, 190 N. E. 178;

State ex rel. Milligan, Superintendent of Madison State Hospital v. Ritter's Estate (1943), 221 Ind. 456, 469, 48 N. E. (2d) 993.

Courts will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567, 24 N. E. (2d) 776;

From the foregoing it is clear that not only under said authorities cited, but from the failure of said Sec. 4, supra, of the statute to make detailed provisions for such an examination, that reference must be made to other sections of the statute in order to supply such deficiency and to determine the legislative intent. This requires a construction of the Examination Section of said statute, being Sec. 3 thereof, supra, subsections (a) and (b), which read as follows:

“(a) All examinations of applicants for a license to practice chiropractic shall be held in the city of Indianapolis during the month of June of each year, and at such other times and places as the state board of medical registration and examination shall direct. Applicants for a license to practice chiropractic shall be examined in the following subjects: Anatomy, chemistry, bacteriology, physiology, hygiene and sanitation, and pathology, before the board of medical registration and examination of Indiana; and shall be examined in the science of chiropractic therapeutics before the chiropractic member of said board. A passing grade in all subjects shall be seventy-five [75]. The application for a license shall be accompanied by an examination fee in the sum of twenty-five dollars [§25.00] payable to the board.

“(b) Any applicant failing in any examination and being refused a license shall be entitled to take a subsequent examination within six [6] months thereafter, upon the payment of an additional examination fee of fifteen dollars [§15.00]: Provided, however, That said applicant shall be required to retake an examination only in the subjects in which he failed to receive a passing grade. After June 1, 1956, an applicant failing in any examination shall be entitled to take a subsequent examination at the next regular examination.”

It must be noted that said subsection (a) of said section of the statute, supra, provides “all examinations” of applicants for such chiropractic license shall be held in the City of Indianapolis and at the times and places as the Board shall direct; shall be examined in the prescribed subjects by the designated Board member; that a passing grade in all subjects shall be seventy-five [75], and provides for an examination fee.
From the language used it is clear said section of the statute refers to “all examinations.”

Subsection (b) of said section of said statute, supra, provides that an applicant failing in “any” examination and being refused a license shall be entitled to a subsequent examination within six months thereafter, upon payment of an additional examination fee of fifteen dollars [$15.00], with the provision that the applicant shall be required to retake an examination only in the subjects in which he fails to receive a passing grade.

It is important to note that subsection (b), supra, begins with the words “any” applicant failing in “any” examination shall be entitled to “a subsequent examination.” The word “any” is all inclusive and when considered with the provisions of subsection (a) supra, applying to “all examinations of applicants,” it is clear that from the language used the Legislature intended such subsequent examination to be available to applicants under Sec. 4 of said statute, supra. However, this would seem to be limited to one subsequent examination as the provision thereof under said subsection (b), supra, is that they are entitled to take “a” subsequent examination within six months thereafter.

The last line of subsection (b) of said Sec. 4 of said statute, supra, reads “After June 1, 1956, an applicant failing in any examination shall be entitled to take a subsequent examination at the next regular examination.” This, in my opinion, means that it is only applicable to applicants failing in any examination taken after June 1, 1956 and as to those, they must wait until the next regular examination. That those taking the examination prior to June 1, 1956 are entitled to take their subsequent examination within six months thereafter. From the language used, the six month provision refers to an applicant failing in an examination and being refused a license, so that it is not too clear whether the Legislature meant six months from the time the examination was actually taken or whether it means six months from the time the papers were graded and notice thereof given the applicant of such failing. Since both conditions are referred to in the same sentence it is my opinion it would be within six months of either the time of giving the examination or within six months of reporting such failure to the applicant.
From the foregoing, I am of the opinion your questions should be answered as follows:

1. Applicants admitted to examination under Sec. 4 of said Act, supra, and failing such examination are entitled to a subsequent examination as provided in Sec. 3, subsection (b) of said Act, supra, upon the same terms and conditions as applicants who meet the requirements of Sec. 2 and Sec. 3, subsection (a) of said Act, supra.

2. Such applicant referred to in the answer to your question number one is entitled to the original examination and one subsequent examination within six months of the time the applicant has been notified by the Board of his failure to pass such original examination.

3. The last line of Sec. 3, subsection (b) of said Act, supra, quoted in your third question, would not influence the answers to your questions numbered one and two as such provision applies only to applicants taking and failing in an original examination given after June 1, 1956. This answer is made for the reason that applicants under Sec. 4 of said statute, supra, were required to apply within sixty [60] days from the time said Act became effective. The Act contained an emergency clause. All such applicants recognized by the Board as meeting the requirements of Sec. 4 of said Act, supra, and applying within the stated time, were examined by the Board in June of 1955; their grades were officially determined by the Board August 31, 1955 and notice of applicants so failing such examination given by the Board in September of 1955.

Therefore, any such applicants so taking such examination and failing the same are required to be given their subsequent examination within the said six [6] month period which would be prior to June 1, 1956, and therefore, none of such applicants would come within the provisions made by the last line of said subsection (b) of Sec. 3 of said Act, supra, as they would not in that case be failing an examination after June 1, 1956. Said referred to provision of the statute only applies to those taking and failing an original examination given after June 1, 1956, in which event the subsequent examination is not given within a six month period from time of failure, but must be taken at the next regular examination.