Section 8 of the Act above cited provides in effect that the plans and specifications of any elevator, dumb waiter or moving stairway which is relocated or altered shall be submitted to the Division together with application for an alteration or relocation permit. Section 9 of said Act provides that a construction permit shall be issued by the Division for any new elevator, dumbwaiter, or moving stairway before the installation thereof is started. Section 3 of said Act clearly and emphatically indicates that this Act is one designed to provide for safety of life, limb, and property. This statute is, in my opinion, one which may apply to a person, firm or corporation which installs a new elevator or alters or relocates an elevator in a state institution. While I am in accord with 1953 O. A. G., page 103, No. 22, supra, which indicates that your Division has no authority to charge state institutions a fee for inspecting elevators, nevertheless I am of the opinion that a distinction may be made with regard to requiring a private person to obtain a permit for installing, altering or relocating an elevator in a state institution. The statute was designed to protect human life and limb on elevators, dumb waiters and moving stairways; I am of the opinion that the Legislature did not intend to leave the general public, as well as employees, wholly without protection in state institutions. I conclude, in the terms of your question No. 2, that a permit must be obtained from the Division of Labor by individual elevator companies to make installations, alterations, or relocations of elevators, dumb waiters and moving stairways in state institutions.

OFFICIAL OPINION NO. 9
April 27, 1955

Mr. Curtis E. Rardin
Auditor of State
238 State House
Indianapolis, Indiana

Dear Mr. Rardin:

This is in reply to your letter requesting an Official Opinion as to the following:

"House Enrolled Act No. 535, now Chapter 336, Acts of 1955, provides for the distribution to the cities and

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towns of the State of Indiana of five hundred thousand dollars ($500,000.00) from the Fire Marshal Fund.

"Questions we have regarding this Act are as follows:

1. Is the Office of the Auditor of State the responsible office for effecting the distribution?

2. If the answer to question one is in the negative, what office is responsible?"

The Acts of 1913, Ch. 192, Sec. 18, as last amended by Acts of 1955, Ch. 336, Sec. 1, effective March 11, 1955, provides as follows:

"All fire insurance companies duly licensed to transact business in the State of Indiana shall pay into the state treasury on or before March 1 of each year, an amount equal to one-half of one cent of the gross premiums of each company, received on fire risks written in the state, after deducting therefrom return premiums and considerations received from reinsurance, as reported by them to the auditor of State of Indiana for the payment of premium taxes as now provided by law; said annual payment by such companies shall be in addition to all taxes and license fees now required by existing law or laws to be paid by fire insurance companies doing business in Indiana, and which fund so paid in and created shall be known as the fire marshal fund.

"On or before July 1, 1955, there is hereby allocated to the cities and towns of this state the sum of five hundred thousand dollars from the fire marshal fund. This sum shall be allocated to the cities and towns upon the basis that the population of each city and town bears to the total population of all the cities and towns at the last preceding United States census, and shall be deposited by such cities and towns in a special fund to be used for the maintenance of and for the purchase of fire fighting equipment for such cities and towns and shall be used for no other purpose."
Under this statute, as last amended, it is provided that certain payments be made from the Fire Marshal Fund to the various cities and towns of the state according to a formula set out therein.

It appears to me that there are necessarily two steps to be taken in effecting the distribution of this money, to-wit:

(1) The computation and calculation of the amount which is to be paid to each city and town according to the formula set out in the statute, and

(2) The actual distribution and payment of these amounts to the various cities and towns.

Insofar as I can determine, there is no particular state agency charged with general or exclusive administration of the Fire Marshal Fund so as to authorize it to undertake the computations and calculations referred to in (1) above. See Acts of 1913, Ch. 192, Sec. 18 et seq., as found in Burns' Indiana Statutes (1950 Repl.), Sections 20-818 to 20-820. I would think that the initial responsibility and duty in connection with the execution of the provisions of this statute would rest with the Governor in whom the executive power of the state is vested, as set out in the Indiana Constitution, Art. 5, Sec. 1. Therefore, I believe that the Governor should cause some qualified state officer or agency within the Executive or Administrative departments to make these calculations according to formula, and to certify the results thereof to the Auditor of State in order that he may know the amount of money which each of the various cities and towns is to receive under the above-quoted statute. It would, of course, be proper for the Governor to designate the Auditor of State as the person to make these calculations, especially since the formula set out above appears to be identical to the formula used in the State Gasoline Tax distribution to cities and towns which is effected by the Auditor of State. See Acts of 1941, Ch. 168, Sec. 3, as amended, as found in Burns' Indiana Statutes (1949 Repl.), Section 36-2817, subsection (a).

Insofar as (2), above, is concerned, the Auditor of State should then draw the warrants for the payment of this money on the State Treasurer, as provided for in 1 R. S. (1852), Ch. 7, Sec. 2; Burns' Indiana Statutes (1951 Repl.), Section
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49-1702, subparagraph 8, and the Treasurer of State should pay these warrants upon their presentment to him for payment, as authorized by the Acts of 1859, Ch. 138, Sec. 7; Burns' Indiana Statutes (1951 Repl.), Section 49-1809.

OFFICIAL OPINION NO. 10

May 2, 1955

Mr. Curtis E. Rardin
Auditor of the State of Indiana
238 State House
Indianapolis, Indiana

Dear Mr. Rardin:

This is in reply to your letters of March 21, 24, and 31, 1955, in regard to House Enrolled Act No. 11 which provides for the Korean Bonus. For the purpose of the avoidance of repetition in the citations of authority, et cetera, I am taking the liberty of consolidating your four requests into one Official Opinion.

Your four inquiries are as follows:


“Under date of March 11th, 1955, as of the Governor's signature, House Enrolled Act #11, in Section 5, 'Provides for the processing and payment of World War II claims presented to the Auditor of State prior to the effective date of this Act.'

“The Bonus Division respectfully requests a decision as to whether the World War II claims herein described are to be paid prior to the Korean claims, or whether they shall be paid after the completion of the paying of the Korean Bonus.”


“The Administrator of the Indiana Bonus respectfully requests your decision as to the meaning of Section 2, Sub-section (F), of H. B. #11.

“No. Does this mean the 10% service connected disability, determined by the United States Veterans Ad-