expense although necessary in the carrying out of the business but would be chargeable as a capital outlay. But in the instant case you are dealing with a government agent and the problem before us is not one of income tax but what the Legislature intends by its language.

It is my opinion therefore that the term "capital outlay" would not preclude the purchase from the Revolving Fund of equipment, either the replacement or new equipment that is vital and necessary and to be used in the operation of the Industries or farms at the institutions in question.

OFFICIAL OPINION NO. 83
September 9, 1949.

Mr. Charles E. Weeks,
Representative Delaware County,
1419 Kirby Avenue,
Muncie, Indiana.

Dear Sir:

I have your letter of August 22nd which is as follows:

"In answer to your letter of 8-8-49 concerning House Enrolled Act 170 my question is this. Must the city of Muncie furnish all the fire-fighting equipment and uniforms used by the firemen of our city or if they do not wish to do this are they forced to compensate them with a one hundred dollar annual allowance to be used for this purpose.

"Should like an official opinion from your office concerning this question."

Section 1 House Enrolled Act 170 same being Chapter 14 acts of 1949 is as follows:

"All cities having regularly organized and paid police and fire departments shall provide for use by the active members of such police and fire departments of all uniforms, clothing, arms and equipment necessary to
the performance of their respective duties: Provided, however, That after one year of regular active service in said departments, any such member thereof may be required by such city to furnish and maintain all of his uniform, clothing, arms and equipment upon the payment to such member by such city of an annual cash allowance of not less than one hundred dollars; provided however, that in cities of the fifth class, such allowance shall be not less than fifty dollars ($50.00) per year."

Upon study I have no reason to doubt the validity of this legislation. It clearly requires all cities to furnish uniforms, clothing, arms, and equipment necessary for members of regularly organized Fire Departments to perform their duties. This requirement, that any uniforms or equipment necessary be furnished, would of course, be performed by the Department without providing any uniforms or equipment if none were necessary.

This duty may be avoided in cities of the first through the fourth classes, after an officer's first year, by payment of $100.00 in lieu of furnishing uniforms, clothing, arms and equipment. This alternative is at the option of the city in its sound discretion and as long as the city furnished all uniforms, arms and equipment, if any, that are necessary the city could not be required to pay this annual allowance.

NJB:man

OFFICIAL OPINION NO. 84

September 12, 1949.

Mr. Ross Teckemeyer,
Executive Secretary,
Public Employees' Retirement Fund of Indiana,
707 Board of Trade Building,
Indianapolis 4, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of August 19, 1949, requesting an official opinion. Your letter is as follows: