which claim of exemption is desired. It may possibly be that the General Assembly did not think it was necessary to risk the loss of the Veterans' Administration's letter of certificate or disability check by sending it to the Auditor of counties other than that of the veteran's residence.

I am, therefore, of the opinion that the exemption allowed in Chapter 352 of the Acts of 1947 may be claimed against property owned in a county other than a county in which the disabled veteran, claiming the exemption, resides. I am further of the opinion that the person claiming the exemption need file his affidavit only with the County Auditor of the county of his residence and that upon the transmittal of satisfactory proof that he has complied with Section 2 in the county of his residence, the Auditor of any other county should allow the exemption against the property of the disabled veteran in that county to the extent of the balance remaining after deducting any part of the exemption previously allowed. I am further of the opinion that the County Auditor where the exemption is claimed may make reasonable requirements to insure against allowance of more exemption than the statute authorizes.

OFFICIAL OPINION NO. 40

May 3, 1948.

Hon. John D. Pearson,
Insurance Commissioner,
State House,
Indianapolis, Indiana.

Dear Mr. Pearson:

I have your letter of March 2, 1948, which reads as follows:

"Attached please find proposed filing of the American Casualty Company by which they propose that when any auto risk is assigned to the company the classification shall be that of Class 'B' and carry the rate prescribed by such Class 'B' classification.

"May we request an opinion as to the authority to accept such automatic classification by reason of such assignment under the provisions of the Indiana Auto
Assigned Risk Plan and which increases the rate of premium stated in the plan.

"Attached find proposed filing and copy of Auto Assigned Risk Plan."

As I understand the letter from the American Casualty Company, which was enclosed with your request, that company is attempting to file the "Indiana Automobile Assigned Risk Plan" with an exception page which they label "MPP-7-2-48" as a part of their regular schedule of rates that are required to be filed by that company under our insurance code. The exception referred to above which the American Casualty Company is to file as a part of the "Indiana Automobile Assigned Risk Plan" is as follows:

"The rate for any risk of the Private Passenger Automobile Classification accepted by the Company under the Automobile Assigned Risk Plan of the State, or on which Proof of Financial Responsibility must be filed in order to reinstate or maintain automobile operating privileges shall be based on the Class B Private Passenger Automobile Rate."

The first question for consideration is the status of the Indiana Assigned Risk Plan. This Plan is entirely voluntary with only a semi-official standing which is due to the permission granted by statute for the formation of such groups and due to the further provisions in the Plan itself that require approval by the Insurance Commissioner. I first call your attention to Section 15 of Chapter 60, Acts of 1947 which reads as follows:

"Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner."
I also call attention to Sections 1 and 2 of the Plan which clearly sets forth the purposes and types of the agreements.

"ARTICLE I—INTRODUCTION AND MISCELLANEOUS PROVISIONS"

"Sec. 1. Purposes of Plan

"The purposes of this Plan are:

"(a) To provide a means by which a risk not specifically excluded from the Indiana Motor Vehicle Safety-Responsibility Act and that is in good faith entitled to automobile bodily injury and property damage liability insurance in the State, but is unable to secure it for itself, may be assigned to an authorized carrier.

"(b) To establish a procedure for the equitable distribution of such assigned risks among such insurance carriers.

"Sec. 2

"The Plan is in effect a voluntary agreement among all of the insurance companies, both ‘stock’ and ‘non-stock,’ transacting the business of automobile bodily injury liability insurance in the State adopted in the interest of public service.”

It is necessary to point out at this time that the modification proposed by the American Casualty Company, supra, includes two types of risks on which it charges a higher rate: (1) risks on which proof of financial responsibility must be filed in order to reinstate or maintain privileges and (2) risks accepted under the Plan.

Before considering these two classifications, I point out the pertinent provisions of Chapter 60 of the Acts of 1947 which generally sets forth the requirements for the filing of rates by the companies writing motor vehicle insurance and is the authority upon which the Insurance Department must approve or disapprove any attempted filing. Section 1 of this act declares a general purpose and states that "* * * Nothing in this act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage except to
the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This act shall be liberally interpreted to carry into effect the provisions of this section."

Sections 4, 5 and 6 deal with the requirements and methods of fixing rates and classifications. The material provisions that concern this problem read as follows:

"Sec. 4 (a) All rates shall be made in accordance with the following provisions:

"1. Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or absorbed premium deposits allowed or returned by insurers to their policy holders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state:

"* * *

"3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks which are lower than those filed and which evaluate variations in physical or moral hazards, individual risk experience, or expense provisions.

"4. Rates shall not be excessive, inadequate or unfairly discriminatory.

"(b) Except to the extent necessary to meet the provisions of subdivision 4 of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

"(c) Nothing in this section shall be taken to prohibit as unreasonable or unfairly discriminatory the establishment of classifications or modifications of classifications of risks based upon size, expense, management, individual experience, purpose of insurance, location or dispersion of hazard, or any other reason-
able considerations, provided such classifications and modifications apply to all risks under the same or substantially similar circumstances or conditions.

"Sec. 5 (a) Every insurer shall file with the department every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the department does not have sufficient information to determine whether such filing meets the requirements of the act, the department may require such insurer to furnish the information upon which the insurer supports such filing. Any filing shall be supported by (1) the experience or judgment of the insurer or rating organization making the filing or (2) the experience of other insurers or rating organizations, and (3) any other factors that the insurer or rating organizations deems relevant, and which the commissioner shall consider to the extent that it supports the filing. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

"* * *"

"(h) Any insurer may make written application to the department for permission to file a uniform percentage increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by said department to be a proper rating unit for the application of such uniform percentage increase, or for a subdivision of a kind of insurance (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (2) for which separate expense provisions are included in the filing of the rating organization. Such application shall specify the basis for modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be
sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, or unfairly discriminatory. Each such modification permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

"Sec. 6
** * *
"(d) No manual of classifications, rules, rating plan, rating system, plan of operation or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, shall be disapproved if the rates thereby produced meet the requirements of this act."

The Assigned Risk Plan as adopted by all of the companies to the agreement has been approved by the Insurance Department and the rates chargeable to the various insureds have been specifically set out in the Plan and have been approved by the Insurance Commissioner. The rates to be charged under the Plan are set forth in Article 3 and are as follows:

"Sec. 30. All risks assigned under this Plan shall be subject to the rules, rates, minimum premiums and classifications in force, and to the Rating Plans applicable thereto which the insurers to which the risks may be assigned use in the State, plus an additional charge of 10% for public passenger carrying vehicles and for long haul trucking risks, and for all others 15%."
"Sec. 31. If the experience physical or other conditions of any risk applying for coverage under this Plan are such as to indicate that the hazard of the risk is greater than that contemplated by the rates or minimum premiums normally applicable to the risk, the insurer may charge such rates and minimum premiums as are commensurate with the greater hazard of the risk, subject to approval by the Governing Committee and of the Insurance Commissioner with whom such rates or minimum premiums shall be filed in accordance with the Indiana Insurance Law. Any such special increase in rate in accordance with this paragraph shall be deemed to include the additional charge of 10% for public passenger carrying vehicles and for long haul trucking risks, and for all others 15%.”

Pursuant to the above quoted provisions of Chapter 60 a company is granted considerable latitude in determining and fixing classifications and rates, which should be approved by the Department unless they are determined to be contrary to the general purposes of the act and a violation of its provisions. Under subsection (a) of Section 5, the Commissioner should consider all information furnished in support of any filing, together with his own information and knowledge, and also he may request additional information if he feels it is necessary to arrive at a proper conclusion.

As to the specific modification requested, I have previously said it includes two types of risks. They are discussed separately:

1. The part of the proposed modification that deals with reestablishment of privileges under the financial responsibility law concerns only the company and applicant for insurance. It is based on a type of risk which has had a revocation under Chapter 159 of the Acts of 1947 (Section 47-1044 Burns’ et seq.) and patently represents a class of risks which can be said to be more hazardous and as a consequence a company might from general experience feel it must charge a higher rate. It does not seem this provision on its face could be considered as being contra to the provisions of Chapter 60 unless upon your information you should find it excessive.

2. The second part of the modification (Assigned Risks Under the Plan) presents a somewhat different problem. It
should be noted in considering this aspect of the proposed modification that this classification raises the rate on a type of risk for the sole reason of being assigned under the Plan. It seems quite clear that this type of risk could be considered extra hazardous due to the fact that only those risks that have been rejected by three separate insurance carriers are eligible under the Plan (Assigned Risk Plan, Page 1), and therefore, it seems reasonable that any company might be forced by experience to charge a higher rate for the same. Yet, one must further consider that the Department and the Insurance Commissioner have already recognized this fact and have already approved the rating plan set forth in Article 3 of the Plan, *supra*, which in itself provides for an overcharge of 15% for risks of this particular type and have further approved a provision for an extra surcharge on individual risks that are abnormal as to their hazardous nature. As mentioned previously this approval and plan is all in pursuance to Sec. 15 of Chapter 60. Thus, it is apparent that the Department has in fact by such approval automatically and indirectly approved a filing for each participating company for this type of risk and all with due consideration to its unusual type. Thus, the additional charge granted in the Assigned Risk Plan is actually a filing under the act for this type of risk and the approval of this second part of the proposed modifications by the American Casualty Company would result in a double raise of this rate as to risks assigned it under the Plan. This is a question that has to be determined by the Department; whether it would be unfair discrimination against those risks which may be assigned under the Plan to allow a double increase in the rates applicable to them. It seems imperative that the Department must recognize its own actions in previously approving any rating system under the act when it is called upon to pass upon any proposed modification.

The department under the Assigned Risk Plan has approved a surcharge for assigned risks. Presumably the basis of the approval is that such risks are extra hazardous. Now it is called upon to approve a filing by an individual company for "assigned risks." Presumably the reason for that filing (which increases the rate) is that the risks are extra hazardous. Thus, for the same reason this individual company has requested approval of two increases in rate which are cumu-
Whether that amounts to a proper filing, i. e., is excessive or discriminatory, I believe is within your discretion based upon all available information.

OFFICIAL OPINION NO. 41

May 10, 1948.

Hon. Ben H. Watt, Superintendent,
State Board of Education,
227 State House,
Indianapolis, Indiana.

Dear Mr. Watt:

Your letter of March 22, 1948, has been received in which you request an official opinion on the following questions:


"2. Does the same decision delivered by Justice Black invalidate rule 79 of the General Commission of the Indiana State Board of Education?

"3. Does the same decision invalidate the teaching of Bible as a one semester course as permitted by the 1923 Acts, Chapter 91?"

Chapter 225 of the Acts of 1943 is Section 28-505a, Burns' 1947 Pocket Supplement, and amends Chapter 132 of the Acts of 1921 by adding a new section to the law. The original law is the compulsory school attendance law of this State, being Section 28-501, et seq., Burns' 1947 Pocket Supplement. It is, therefore, clear this is an amendment to our Compulsory Education law and is in the nature of an exception to such law, available for all classes of persons desiring to take advantage of it. The 1943 amendment reads as follows:

"If it is the wish of the parent, guardian or other person having control or legal custody of any child,