Subsection (d), I believe, should be similarly interpreted.

It is, therefore, my opinion that an Indiana insurance company may not receive credit for deposits held in a bank of a foreign state or country, which are not required by the law or regulation of that foreign state or country and which are held for the convenience of the insurance company.

DEPARTMENT OF PUBLIC WELFARE: Eligible lists, establishing same.

May 14, 1943.

Hon. T. A. Gottschalk, Administrator,  
Department of Public Welfare,  
141 South Meridian Street,  
Indianapolis, Indiana.

Dear Sir:

Your letter of April 2, 1943, requests an opinion in substance as follows:

"We would like your official opinion as to what law controls concerning the eligible lists from which the county boards of public welfare shall appoint the county director of public welfare, that is, whether Senate Bill 172 effective March 3d, 1943, controls the selection of eligible lists for that office or does that power solely pertain to the duties of the state department of public welfare?  
"Please give us your official opinion whether these eligible lists shall be furnished by the state department of public welfare or the state personnel board."

Senate Bill 172, Chapter 101 of the Acts of 1943, was approved on March 3, 1943, and became effective that day under an emergency clause. Section 1 of said Act in substance abolished the State Personnel Board as then existing, and terminated, revoked and abolished all terms of offices and employments made pursuant to Section 60-1301 et seq., Burns' 1942 Supplement, Chapter 139, Acts of 1941.
Section 6, Chapter 101, Acts 1943 provides as follows:

“All of the rights, powers and duties heretofore conferred by law upon the State Personnel Board as created by said Chapter 139 of the Acts of the General Assembly of the State of Indiana for the year 1941 are hereby adopted and continued in full force and effect and are hereby transferred to and conferred upon, and shall be performed by, the Indiana Personnel Board which is created by this act, and all the jurisdiction, rights, powers and duties now vested in or required of the State Personnel Board created by said Chapter 139 of the Acts of the General Assembly of the State of Indiana for the year 1941, excepting only such as may be in conflict with this act, are hereby continued in full force, transferred to, vested in and imposed upon the Indiana Personnel Board as hereby created. All matters and proceedings now pending before the State Personnel Board are hereby transferred to the Indiana Personnel Board as created by this act, which is hereby given jurisdiction over the same to the full extent that such jurisdiction has been or is now vested in said State Personnel Board.”

From an examination of the new personnel act in its entirety it is apparent that only the rights, powers and duties of the prior State Personnel Board were to be exercised by the new Indiana Personnel Board established by Chapter 101, Acts 1943. Therefore, it becomes necessary to determine what were the rights, powers and duties of the State Personnel Board under the Acts of 1941 in so far as they affect the question under consideration.

The law concerning the State Personnel Board of 1941 has been previously construed by this office. See 1941 Opinions of the Attorney General, pages 268-275. Concerning the authority of the State Department of Public Welfare, that opinion said:

“1. Answering your questions specifically, I am of the opinion that as of the effective date of the promulgation of the Acts of 1941, Chapter 179 thereof will override and supersede Chapter 139 so far as the component parts of said Act are in conflict.
2. Your second question is answered in the affirmative, that is, the State Board of Public Welfare can operate its own merit system for the State and County Welfare Departments."

Section 2 of Chapter 83 of the Acts of 1943, which amended Section 20 of the original Welfare Act of 1936, 52-1119 Burns' 1933 Supplement, provides in part as follows:

"Duties of the county boards. The county board of public welfare shall appoint a county director of public welfare who shall be appointed solely on the basis of merit from eligible lists established by the state department, * * * ."

Section 2 of Chapter 83 of the Acts of 1943, which amended Section 20 of the original Welfare Act of 1936, 52-1119 Burns' 1933 Supplement, provides in part as follows:

""Duties of the county boards. The county board of public welfare shall appoint a county director of public welfare who shall be appointed solely on the basis of merit from eligible lists established by the state department, * * * ."

Section 52-1104, Burns 1933 Supplement, Acts 1936 (Spec. Sess.), Ch. 3, Sec. 5, p. 12; 1937, Ch. 41, Sec. 1, p. 235; 1941, Ch. 179, Sec. 3, p. 536, was not amended by the 1943 Acts, and it provides in part as follows:

"* * * The state department is hereby charged with the administration or supervision of all of the public welfare activities of the state as hereinafter provided. The State department:

"* * *"

"(j) Shall hold or provide for holding examinations to determine the qualifications of applicants for positions in the state department and county departments and provide for annual merit ratings of employees in the state department and county departments to ascertain whether such employees, or any of them, are maintaining the eligibility standards prescribed by the state department."

The State Department of Public Welfare is a statutory board, and as such has only such powers as are expressly granted to it, or such powers as arise by necessary implication from those expressly granted, or such as are required in the performance of the duties which are imposed by law.

"The State Board of Tax Commissioners is a creature of the legislature, and, like other statutory boards,
possesses only such powers as are conferred upon it by legislative enactment."

Doyle v. Lafayette Savings Bank (1923), 81 Ind. App. 177, 179.

"The State Board of Tax Commissioners is a creature of the statute. The only authority it has relating to the assessment of property for taxation and equalizing assessments is to be derived from the statute. * * * The statute marks the limit of its power, and if it goes beyond the statute its acts are void."


"The Department of Conservation was created by ch. 60, Acts 1919, p. 375. The status of such department is administrative only, and is a branch of the administrative arm of the government of the state (Sec. 1). This department is administered by a commission of four members in whom vest all the powers and duties delegated to this department of the administrative branch of the government. This commission is without the power to delegate any of its powers and duties to any officer or agent it may employ, either as directed by the act itself, or as any inherent power which the commission might seek to take. * * *"

State, ex rel. v. Sloan (1925), 197 Ind. 556, 560.

Therefore, under the foregoing statutes and authorities, the State Department of Public Welfare could permit the State Personnel Board to exercise only those duties of the State Department of Public Welfare as the statutes concerning the department authorize.

However, I am of the opinion that the language, "or provide for holding examinations * * *" (52-1104, Burns' 1933 Supp., supra) is broad enough to empower the State Department of Public Welfare to delegate to the new Indiana Personnel Board the holding of examinations for establishing eligible lists for directors of county departments of public welfare; but I do not believe that the legislature intended that the State Department of Public Welfare should delegate all of its discretion in the establishment of eligible lists to an-
other agency, or that the results of the examination should be conclusive on the State Department. After the results of the examination are reported to the State Department it must exercise its own discretion in the matter, taking into consideration the results of the examinations.

If the State Department, in its discretion, deemed it proper to do so, it could "establish" the eligible list as recommended by the Indiana Personnel Board, or it could revise or reject the list. Or the State Department could establish a list after giving its own examination as authorized by the statute. In any event, before any list of eligible applicants could be submitted to any county department, it should appear by record made by the State Department that the list was "established" by the State Department.

Therefore, in answer to your questions, I beg leave to state that in my opinion Senate Bill 172, Chapter 101 of the Acts of 1943, does not control the selection of eligible lists from which the county departments of public welfare shall appoint the county directors, and that the eligible lists for such appointments shall be established and furnished, subject to the methods permitted above, by the State Department of Public Welfare.

STATE CHEMIST AND SEED COMMISSIONER: Commercial fertilizers, whether companies selling same may return unused tags.

COMMERCIAL FOOD STUFFS: Whether unused tags may be redeemed more frequently than once a year.

May 17, 1943.

Mr. F. W. Quackenbush,
State Chemist and Seed Commissioner,
Purdue University Agricultural Experiment Station,
Lafayette, Indiana.

Dear Sir:

I have before me your request for an official opinion in which you ask whether it is possible for commercial fertilizer companies to return tags sold to them under the provisions of Sections 15-1001 to 15-1006, inclusive, of Burns' Indiana Stat-