The Act nowhere defines the term "disability," but in the absence of some restrictive definition, I think the above language must be construed as referring to a disability to teach school not including, of course, professional disability by which I mean a disability to teach on account of failure to comply with licensing provisions or disqualification by reason of revocation or suspension of a license.

TEACHERS' RETIREMENT FUND BOARD: Teachers belonging to local funds prior to 1915 are eligible for membership under 1937 act.

January 6, 1939.

Hon. Robert B. Hougham,
Executive Secretary,
Teachers' Retirement Fund Board,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the question as to whether teachers who were members of the local retirement funds under the 1915 Acts which funds came into the Indiana State Teachers' Retirement Fund under the amendment of 1921,—as to whether such teachers will be eligible for membership under the amendment of 1937.

In defining the members of the fund under the 1937 Act, the statute provides as follows:

"The members of the fund shall be as follows:
"1. All teachers as herein defined, who are employed to teach in the public schools of the State and whose services in such schools began after June 30, 1921, or whose services shall begin hereafter.
"2. Those teachers who entered service in such schools of the State prior to July 1, 1921, but who were not members of the state pension system, and who, before December 31, 1936, elected to receive membership in this system by the payment of arrearages under the conditions set forth by this Act.
"3. Teachers who entered service in the schools of the State prior to July 1, 1921, and who failed to elect
membership in the State Teachers' Retirement Fund prior to December 31, 1936, may elect to receive membership in such fund at any time hereafter by the payment of arrearages under the conditions set forth by this Act."


It seems to me that the above provisions are sufficient to authorize the class of teachers referred to in your question to elect to receive membership in the fund, as provided in the 1937 Act, by the payment of arrearages under the conditions set forth in that Act.

As stated in my opinion to you dated October 28, 1938, such teachers cannot be compelled to come under the provisions of the 1937 Act but they are, in my opinion, clearly eligible to make the election to come under the same.

AUDITOR OF STATE: Refund of gasoline tax as to vehicles on federal projects.

January 6, 1939.

Hon. Frank G. Thompson,
Auditor of State of Indiana,
State House,
Indianapolis, Indiana.
Attention: Mr. Howard L. Rhea.

Dear Sir:

I have before me your request for an official opinion in answer to the question as to whether individuals operating trucks on WPA and PWA projects are entitled to refund of the tax on gasoline as provided in Section 5 of the Indiana Motor Vehicle Fuel Tax Law.

You state that there are a few projects where the equipment is operated wholly on private property, but in most cases the trucks are operated partially on the highway and partially on private property.

You state further that you have been governed in handling these cases by a ruling from our office dated December 20, 1933, which applied to the operation of trucks on CWA. This opinion appears on page 600 of the Opinions of the Attorney General for 1933.