MOTOR VEHICLES, BUREAU OF: Use of Auto License Fund for expenses incident to registration of motor boats; application of service charge to such expenses.

April 28, 1939.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to chapter 66 of the Acts of 1939, same being entitled:

"An Act concerning registration of motor boats, licensing of operators, defining powers of public officials, and matters incident thereto."

This Act does not provide any appropriation for its administration, except as hereinafter indicated, and inasmuch as there will necessarily be expenses in providing applications, examining operators, issuing certificates of registration, assigning numbers to each boat registered, keeping an index record of registrations and the issuance of chauffeur's and operator's license, you request an opinion as to whether such expenses may be paid out of the Auto License Fund of the Bureau of Motor Vehicles.

The Auto License Fund, as I understand the term to be used, accrues from motor vehicle registration fees and operator's and chauffeur's license fees. The several acts authorizing their collection expressly limit their use to the administration of such acts, the balance to become a part of the Motor Vehicle Highway Fund and to be expended for the purposes for which that fund may be used.

Burns Indiana Statutes Annotated (Pocket Supplement, December 1938), section 47-461;
Burns Indiana Statutes Annotated (Pocket Supplement, December 1938), section 47-107.

If it includes other motor vehicle collections, however, the same would be true. All are applicable only to the payment of the costs of administration of the acts authorizing the collection, the balance to be used for some highway purpose or for the policing thereof. I think it follows that chapter 66
of the Acts of 1939 cannot be administered out of the Auto License Fund.

It by no means follows, however, that the law is invalid or unenforceable. Additional burdens may be placed on a public officer without a corresponding increase in salary.

    Board, etc. v. Gresham, 101 Ind. 53, at p. 56;
    Bynum v. Board, etc., 100 Ind. 90, at p. 91.

The Act under consideration, however, does provide for the payment of a fifty cent service charge. (See section 3.) Section 2 of said Act provides also that:

    "All applicable provisions of the law of the State of Indiana concerning registering and licensing of motor vehicles shall apply to the registering and licensing of motor boats except as modified or extended by the provisions of this Act. * * *"

One of these applicable provisions is the limitation of the notary fee which would leave a margin of this service charge available for some other purpose; and while it is true that the appropriation of such balance is not as explicit as it might be made, it is also true that no set form of language is necessary to constitute an appropriation. All that is necessary is the use of words sufficient to authorize the expenditure.

    Carr, Aud. v. State, ex rel., 127 Ind. 206.

The designation of the fee as a "service charge" indicates, I think, that it is to be used to pay the expenses of administering the Act, and I so hold. But I do not think such fees can be supplemented by the Auto License Fund.

HISTORICAL BUREAU: Authority to sponsor, for WPA a state-wide museum project.

May 2, 1939.

Hon. Christopher B. Coleman,
Director, Indiana Historical Bureau,
Department of Education,
140 North Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion upon the question of the authority of the Historical Bureau to sponsor for