of Seymour in good faith before the effective date of chapter 238, *supra*, her compensation is payable on the basis provided for in the act as an attendance officer in a city having a “school enumeration” of two thousand or more. If her appointment was made *after* the effective date of said act, and the “average daily attendance” at the time of her appointment was less than two thousand in the city of Seymour, it must be assumed that her appointment was made under authority of the discretionary provision of section 6448, *supra*, and her compensation is payable out of the funds of the board of school trustees. In either event, her appointment would be valid and her term of office would be for the regular statutory period unless “removed from office by the state board of attendance.” (Section 6449, *supra*.)

TEACHERS’ RETIRMENT FUND BOARD: Gross income—whether a teacher should list annuity or disability compensation as such under Gross Income Tax Act.

July 7, 1933.

Teachers’ Retirement Fund Board,
State of Indiana,
224 State House,
Indianapolis, Indiana.
Att.: R. B. Hougham, Executive Secretary.

Honorable Sir:
I have before me your request for a construction of the Indiana Gross Income Act of 1933, presenting the following inquiry:

“Should a teacher on annuity or disability compensation list said annuity or disability compensation as gross income according to the new law?”

This tax is imposed by section 3 of chapter 50, Acts of 1933, p. 388 at 391. Directing your attention to section 3 (f), p. 392, we find there the following language:

“Upon the gross income of every person engaged in any business or activity not enumerated in subsections (a) to (e) inclusive, of this section, including, but not in limitation of the foregoing, the gross income from professional services, personal services, sales of real estate, all funds received for the performance of con-
tracts, all funds from the investment of capital, and all receipts from any source whatsoever, one per cent."

I am of the opinion that the monies received as an annuity or as disability compensation come within the purview of "* * * all funds from the investment of capital, and all receipts from any source whatsoever, * * *"); and therefore that such receipts constitute "taxable gross income" under the provisions of the law.

HIGHPWAY COMMISSION: Whether commission would be justified in paying bill of Muncie Water Works Company for lowering their mains.  

July 11, 1933.

Hon. Evan B. Stotsenberg, 
Commissioner, 
State Highway Commission, 
Indianapolis, Indiana.

Dear Sir:

I have your letter of July 1st in regard to the matter of the bill of the Muncie Water Works Company for lowering their mains in the sum of $546.35.

Inasmuch as the mains were not on a public highway and they had a prior grant of right-of-way over that particular ground, they would not come under the same rule as where the mains have been constructed on a public street or highway.

It is my opinion, therefore, that the commission would be justified in paying this bill for lowering the mains.

GROSS INCOME AND STORE LICENSE DEPT.: Liability of Sinclair Oil Refining Company for store license tax.  

July 12, 1933.

Mr. N. W. Gordon,  
Gross Income Tax and Store License Division,  
Department of Treasury,  
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion regarding the liability of Sinclair Oil Refining Company for store license tax under the following conditions, namely: