the amounts and for the specific purposes for which any such fund is to be expended.” I think this language is very clear and requires before the expenditure of gasoline tax money not only an appropriation but that the appropriation shall designate the purposes for which the fund is to be expended and that the items shall be included in the published budget. Upon the assumption contained in your question, therefore, the question should be answered in the negative.

It perhaps should be pointed out in this connection also that Chapter 173 of the Acts of 1935 is subsequent in point of time to the decision in the case of Bridges vs. State ex rel. Vaughn, 190 N. E., page 758. However, this opinion is not inconsistent with the conclusion of the court in the above case, in which case the opinion seems to have been predicated upon the fact that there was a surplus in the special road fund above the requirements for current construction, maintenance, and repair. Since the passage of Chapter 173, supra, the taxpayers are entitled to the notice embraced in a budget prepared in conformity with it.

TEACHERS’ RETIREMENT FUND BOARD: Retirement fund, whether may be invested in tax warrants issued under authority of Chapter 161, Acts 1933.

June 30, 1936.

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

Dear Sir:

I have at hand your request of recent date for an opinion concerning the eligibility of tax warrants, issued under the authority of Chapter 161, Acts of 1933, as a proper subject for investment of the funds under the control of your board.

Chapter 161, supra, authorizes the issuance by “any municipal corporation in this state,” of anticipatory warrants payable out of the funds derived from its portion of delinquent taxes, as and when such delinquent taxes are collected. The warrants so issued are to bear interest at a rate not to
exceed four per cent per annum, are tax exempt, and are required to mature in not to exceed ten years. The Act defines the term “municipal corporation” as meaning any county, township, city, town or school corporation. The Act states that the municipal corporation issuing the warrants “may provide that if any warrant or warrants or any series of warrants is not paid for a period of not less than two nor more than ten years, such warrants and the interest due thereon shall be paid by the municipal corporation either by appropriations or by a tax levy made for that purpose.” (Section 6, Chapter 161, supra.)

That portion of the teachers’ retirement fund law which governs the investment of the funds under the control of your board reads as follows:

“Such investments shall be made in interest-bearing securities of the United States; or of any state or territorial possession of the United States; or in any security lawfully issued by any state or county, township, city or other municipal corporation within the United States of America. * * *”

(Section 28-4508, Burns 1933 Indiana Statutes.)
(My italics.)

It would appear that anticipatory warrants issued in compliance with the terms and conditions of Chapter 161, supra, would be securities “lawfully issued by” a “county, township, city or other municipal corporation within the United States of America,” and thus are rendered eligible subjects for investment of the funds under the control of your board by virtue of the provisions of Section 28-4508, supra. Although such warrants do not become general obligations of the municipal corporation in question unless the corporation makes provision, as is authorized by Chapter 161, supra, for the payment of said warrants by appropriation or by tax levy in the event they are not paid from delinquent tax collections during a period of not less than two nor more than ten years, nevertheless this fact would not impair their eligibility under the language of Section 28-4508 above quoted. A different result would, of course, be reached if the Act had required that the securities mentioned in the third classification should be securities “of” a municipal corporation, instead of only re-
quiring, as it does, that they be "lawfully issued by" such a corporation.

In conclusion, it is my opinion that anticipatory warrants issued under authority of the 1933 Act in question, and in conformity with its provisions, may legally be purchased by your board as a proper means of investment of the funds under your control.

AUDITOR, OFFICE OF: Purdue University Permanent Endowment Fund, relation of state to; liability of state for interest on.

June 30, 1936.

Hon. Laurence F. Sullivan,
Auditor of State,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion with respect to the relation of the State to the permanent endowment fund of Purdue University in the sum of $340,000 arising from the Congressional grant of July 2nd, 1862.

The Act of Congress by which the grant was made provided among other things that the fund should be invested "in stocks of the United States, or of some other safe stocks, yielding no less than five per centum upon the par value of said stocks, and that the moneys so invested, shall constitute a perpetual fund." The Congressional Act also provides that the fund "shall remain forever undiminished except so far as may be provided in Section fifth of this Act, and the interest of which shall be inviolably appropriated by each State, which may take and claim the benefit of this Act, to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, * * *.*"

In 1883 the above provisions of the Congressional Act were modified somewhat and for the purposes of this opinion I desire to quote only a part of the amended Section as follows:

"All moneys derived from the sale of lands aforesaid by the States to which the lands are apportioned, and