AUDITOR OF STATE: Governor's Commission on Unemployment Relief. Use of money for operating expense.

September 9, 1938.

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

Dear Mr. Sullivan:

This will acknowledge receipt of your letter of September 1st, in which you submit the Resolution of the Governor's Commission on Unemployment Relief, by which they seek to appropriate $350,365.00 to pay the expense of operation of the Governor's Commission on Unemployment Relief to July 1, 1939.

You ask as to the authority of the Commission so to do. In reply to this inquiry, your attention is directed to Section 52-804, Burns' Indiana Statutes, 1933 Revision, which reads as follows:

"For the purpose of furnishing financial and other relief to the needy and distressed people having a legal settlement in this state, and for the purpose of relieving the hardships resulting from unemployment in this state, there is hereby appropriated out of any money in the general fund in the state treasury to be expended by the Governor's Commission on Unemployment Relief, subject to the approval of the governor, the sum of one million dollars ($1,000,000) or so much thereof as may be necessary in the discretion of the governor. The above amount to be available after the fifteenth day of March, 1933. A like sum, or so much thereof as may be necessary in the discretion of the governor, is hereby appropriated for said purpose out of the general fund in the state treasury for the fiscal year beginning July 1, 1933. The appropriations made hereby shall have precedence over any other appropriation or appropriations made out of the general fund by the seventy-seventh General Assembly, and the seventy-eighth session of the General Assembly, of the State of Indiana. The appropriations made hereby shall continue to be available until expended and no part of the same shall revert to the general fund until the
purposes herein set out have been accomplished: Provided, however, That none of the appropriation made hereby shall be expended upon the finding and determination of the commission on unemployment relief that an emergency exists for such expenditure."

It will be noted from the reading of the above statute that the million dollars referred to is a continuing appropriation to be used "for the purpose of furnishing financial and other relief to the needy and distressed people having a legal settlement in this state, and for the purpose of relieving the hardships resulting from unemployment."

Section 52-805, Burns' Indiana Statutes, 1933 Revision, immediately following, provides that:

"For the purpose of carrying out and administering the provisions of this Act, there is hereby appropriated out of any money in the general fund of the state treasury not otherwise appropriated, the sum of twenty thousand dollars ($20,000) annually, or so much thereof as may be necessary."

The question therefore presented is whether or not any part of the million dollars, above referred to, may be used by the Governor's Commission on Unemployment Relief to pay the expenses incident to the carrying out of the work of said commission. It was evidently the intention of the Legislature when the above quoted statutes were enacted that the expenses of operation of said commission should be limited to $20,000.00 annually. I am informed, however, that the work of the Governor's Commission on Unemployment Relief has been extended and that said commission is now acting as the state agency for the purpose of cooperating with the United States Employment Service in their program of unemployment relief; that such additional duties have increased the operating cost of the governor's commission very materially. These duties were added by the Acts of the Indiana General Assembly of 1935, the same being section 40-610, Burns' Indiana Statutes, 1933 Revision, 1938 Supplement, and sections following.

After providing that the Governor's Commission on Unemployment Relief should act as a state agency for the purpose of cooperating with the United States Employment Service in
carrying out the provision and purpose of an Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such systems and for other purposes," the Act then provides for the expenses of such operation.

Section 40-614, Burns' Indiana Statutes, 1933 Revision, 1938 Supplement, makes an appropriation for the expenses incident to these additional duties and reads as follows:

"There is hereby appropriated, annually, out of any money in the general fund of the state treasury not otherwise appropriated, such amount of money as in the judgment of the governor may be necessary to carry out the provisions of this Act, but the amount so appropriated shall be not less nor in excess of twenty (20) per cent more than the maximum sum which may be allotted to this state by the United States Government for the purposes set forth in the aforesaid Act of Congress: Provided, however, That if the money allotted to the State of Indiana by the United States Government should become exhausted, and if for any reason the United States Government should fail to renew said allotment, then and in that event the governor is hereby authorized to appropriate such sum of money as is necessary to carry out the provisions of this Act, not exceeding, however, the maximum amount otherwise appropriated by the General Assembly for the purposes in this Act specified."

It is apparent from a reading of the above section that the Legislature recognized that additional duties were being imposed upon the Governor's Commission on Unemployment Relief, and accordingly additional appropriations were made to meet such expenses.

I am unable to determine from a reading of the statute last quoted the extent to which the governor would be authorized to draw on the general fund. Such an amount cannot be in excess of twenty per cent more than the maximum sum allotted to the State of Indiana by the United States Government for the purpose of administering the unemployment service.

The Federal Employment Act, U. S. C. A., title 29, Section 49, provided for an annual appropriation, three million ($3,000,000.00) dollars of which is available for distribution to the
states. This distribution is made to some extent in accordance with the population which each state bears to the total population of the United States. Without definite information, therefore, as to the amount of money actually allocated to the State of Indiana by the United States Government for the year 1937, I am unable to state the amount which the governor might be authorized to appropriate for these purposes. However, reference to the Federal statute discloses that these appropriations end June 30, 1938, and if additional appropriations were made by Congress before adjournment we do not have such laws at hand.

It will be noted from a reading of section 40-614, Burns' Indiana Statutes, 1933 Revision, above quoted, that in the event the United States Government fails to renew these allotments "then and in that event the governor is hereby authorized to appropriate such sum of money as is necessary to carry out the provisions of this Act, not exceeding, however, the maximum amount otherwise appropriated by the assembly for the purposes in this Act specified."

It is my opinion that the governor is limited by the provision last quoted and would accordingly be unauthorized to permit expenditures by the commission in amounts in excess of that charged against the general fund for the calendar year ending June 30, 1938. However this may be, answering your question specifically, it is my opinion that no part of the million dollars appropriated by the Indiana General Assembly of 1933, and referred to in Section 52-804, Burns' Indiana Statutes, 1933 Revision, first above quoted, can be used by the Governor's Commission on Unemployment Relief for operating expenses of the commission.

TAX COMMISSIONERS, STATE: County highways. Tax for maintenance and repair.

September 21, 1938.

Hon. Philip Zoercher,
Chairman State Tax Commission,
State House,
Indianapolis, Indiana.

Dear Mr. Zoercher:

This will acknowledge receipt of your letter of September 16, in which you submit the question as to whether or not