Under the above rule it is presumed the Legislature knew that the fees received by said Commission and required to be deposited in said "Excise Fund" had already been appropriated at the time Acts of 1957, Ch. 317, herein considered, was enacted. It is equally apparent that other similar excise funds of the Commission, formerly deposited in the general fund, would be available for the $24,500 appropriation in question. If we give this construction to the statute in question it gives full force and effect to all the statutes involved in accordance with the above legal principles.

I am, therefore, of the opinion that the $24,500 appropriated by Acts of 1957, Ch. 317, Sec. 1, should be deposited in the "Special Education Fund" from excise funds received by said Commission under Acts of 1935, Ch. 226, Sec. 40, paragraph 1 of clause (f), as amended and as found in Burns' (1956 Repl.), Section 12-809, to the extent such funds are available, before such use could be made of the excise funds collected under the next succeeding section of the same act, Burns' (1956 Repl.), Section 12-810, which funds are those already appropriated and directed to be deposited in the "Excise Fund."

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OFFICIAL OPINION NO. 37

August 6, 1959

Mr. John Peters, Chairman
State Highway Department of Indiana
State House Annex
Indianapolis 9, Indiana

Dear Mr. Peters:

This is in answer to your recent letter wherein you request an Official Opinion regarding the disbursement of funds to Grant and Wabash Counties from a special deposit account of the Office of Civil Defense Mobilization on orders of the Regional Director of that office. This disbursement of funds would represent a reimbursement to said counties of a part of the cost of constructing a county line bridge.

The precise question is contained in your first letter of May 15, 1959, and reads as follows:
“Can the State Highway Department upon proper authorization from the Regional Director, Office of Civilian Defense, make payments from the Special Deposit Account directly to the County Treasurers of Grant and Wabash Counties?"

The foundation for the answer to your questions commences with Public Law 875 of the 81st Congress as amended and as found in 42 U. S. C. A. § 1855 et seq. This act of Congress provides, in essence, rules for disaster assistance by the federal government to state and local governments in order to alleviate suffering and damage resulting from major disasters caused by flood, drought, fire, etc. Pursuant to Section 1855-d of the above act, the President of the United States has issued two Executive Orders, No. 10427 and No. 10737, under date of January 16, 1953 and November 1, 1957, respectively. These two Executive Orders in substance spell out the procedure and the conditions whereby the state or local government may obtain federal funds for disaster relief. Executive Order No. 10737 provides for an agreement between the Governor of the state and the United States of America, which agreement outlines the terms and procedures to be followed in the administration of relief funds.

Pursuant to Executive Order No. 10737, the State of Indiana, by and through the Governor, and the United States of America, by and through the Regional Director, Office of Civil Defense Mobilization, entered into a Federal-State Disaster Assistance Agreement on February 11, 1959. Article 3 (a) of this agreement designates Mr. John Peters, Chairman, Indiana State Highway Department, as the authorized representative of the state to review project applications and to certify that such applications meet all the requirements of this agreement. In the case of reimbursements, Article 5 provides the state must submit duly executed vouchers and other documented evidence as to the satisfactory completion of the project work. Article 7 of this joint agreement states, in part:

"* * * The Governor hereby certifies that John Peters, Chairman, Indiana State Highway Commission, is the authorized representative of the State empowered to execute on behalf of the State all necessary certifications, substantiations, agreements and implementing orders."
1959 O. A. G.

With respect to the deposit and withdrawal of funds advanced to the state by the federal government, Article 6 of the agreement states "(a) that the funds will be deposited in a separate fund or account subject to withdrawal only upon certification of the authorized representative of the State * * *"

The wording of the above agreement is contained in the original understanding between the State of Indiana and the Office of Civil Defense Mobilization and indicates that Mr. John Peters, Chairman, State Highway Department, is the person authorized to certify claim vouchers to the auditor and treasurer of the State of Indiana for the purpose of disburse the disaster assistance funds to Grant and Wabash Counties from the special account which has been set up to handle this money.

Since the original agreement of February 11, 1959, I find Supplement No. 1 bearing the date of February 23, 1959 which incorporates by reference the provisions of the February 11, 1959 agreement. In addition thereto, I note that certain other disaster areas are covered, including Wabash County. The second Supplement to the original agreement, which also incorporates by reference the provisions of the original agreement, extends the disaster relief provisions to Grant, Daviess and Gibson Counties.

In view of all the foregoing, it is my opinion that payments from the special deposit account may be made directly to the county treasurers of Grant and Wabash Counties upon proper authorization from the regional director, Civil Defense Mobilization, and that Mr. John Peters, Chairman, State Highway Department, is the proper representative of the state to certify and approve such payments.