

OPINION NO. 70-159**Syllabus:**

1. Repayment of unpaid balances on loans granted by the Administrator with the approval of the Advisory Council under the provisions of Section 4141.11 (A) and (A) (1), Revised Code, may be waived by the Administrator with the approval of said Council.

2. The Administrator may treat said unpaid amounts as outright grants.

To: Willard P. Dudley, Administrator, Ohio Bureau of Employment Services,
Columbus, Ohio
By: Paul W. Brown, Attorney General, November 23, 1970

This is in response to your request for a formal opinion from this office, which request I am quoting below:

"I respectfully request your formal opinion regarding certain unpaid loans made by the Administrator of the Bureau of Employment Services, formerly known as the Bureau of Unemployment Compensation, from the special administrative fund during the years from 1956 through 1964. An Exhibit setting forth the nature and amount of these loans is attached hereto, together with a copy of Section 4141.11, Revised Code, which outlines authority for these loans and the means by which funds are accumulated through collection of interest and penalties from delinquent employers, and the manner by which they may be dispensed.

"With relation to the list of unpaid loans, I wish to know whether, in view of the language contained in the statute, (1) waiver of repayment may be authorized by the Advisory Council, which originally authorized the loans, when funds are not allocated by the Federal Government through ordinary budgetary request procedures; and (2) whether the Administrator, based upon the above waiver, may treat the unpaid amounts as outright grants for the purposes enumerated."

Section 4141.11, Revised Code, covering "Unemployment compensation special administrative funds; source; purposes" reads as follows with respect to the first paragraph thereof and subparagraphs (A) and (A) (1), and with which we are here concerned:

"There is hereby created the unemployment compensation special administrative fund as a special fund in the state treasury. Such fund shall consist of all interest collected on delinquent contributions pursuant to sections 4141.01 to 4141.46, inclusive, of the Revised Code, and all fines and forfeitures collected under such sections. All moneys which are deposited or paid into this fund are available to the order of:

"(A) The administrator of the bureau of unemployment compensation with the approval of the advisory council whenever it appears that such order is necessary for:

"(1) The proper administration of sections 4141.01 to 4141.46, inclusive, of the Revised Code, and no federal funds are available for the specific purpose for which such expenditure is to be made, provided the moneys are not substituted for appropriations from federal funds, which in the absence of such moneys would be available;

" * * * * * " * * * * "

The list of loans appended to your letter showing the dates, purposes and the amounts of said loans and the unpaid balances on each, are as follows:

Balance Due on Unpaid Loans
 Special Administrative Fund
 as of April 1, 1970

<u>Date of loan</u>	<u>Amount of Loan</u>	<u>Purpose of Loan</u>	<u>Amount Unpaid</u>
December, 1956	\$ 2,400.00	To advance expenses for three Hungarian-Speaking interviewers From Cleveland office to Camp Kilmer, New Jersey to aid in placement of Hungarian refugees. Of the \$2,400.00 loaned, \$1,357.54 was returned to Fund by the three interviewers. The amount returned represented funds in excess of necessary expenditures	\$ 1,042.46
June, 1957	\$ 8,650.00	For preliminary survey to determine feasibility of constructing addition to BUC building at 427 Cleveland Avenue, Columbus, Ohio	8,650.00
October, 1957	50,000.00	For rehabilitation of Central Office building, 427 Cleveland Avenue, Columbus, Ohio.	14,804.65
March, 1964	300.00	Relocation of light pole on Cincinnati local office parking lot	300.00
Total Unpaid loans, as of April 1, 1970.....			\$24,797.11

From the statement incorporated in the first of your two questions, I assume that the loans were made by you with the approval of the Advisory Council under the provisions set forth in said Section 4141.11 (A) (1), supra. Under the above quoted provisions of the Ohio Revised Code, the Unemployment Compensation Special Administrative Funds may be disbursed by the Administrator, with the approval of the Advisory Council, for any purposes involving the proper administration of sections 4141.01 to 4141.46, inclusive, of the Revised Code, provided no federal funds are found by the Administrator to be available for the purposes for which such disbursements are made.

Answering specifically, therefore, your first question, the law which authorized the expenditure of funds either in the form of a loan or a disbursement for expenses in the proper administration of Sections 4141.01 to 4141.46, supra, allows, with the approval of the Advisory Council, the waiver of repayment of any part of, or all of, a loan or loans made under the above quoted section of the Revised Code, since repayment of any disbursements so made is not required by the statute.

Answering your second question, the Administrator, with the approval of the Advisory Council, being authorized under conditions with which we are here concerned, to make disbursements, including outright grants in the proper administration of said Sections 4141.01 to 4141.46, supra, the Administrator with the approval of the Advisory Council, and based upon the waiver referred to above, may treat the unpaid balances on the above listed loans as outright grants, the Administrator, under such conditions, having had the initial right to make such grants in the first instance.

It is, therefore, my opinion and you are so advised that:

1. Repayment of unpaid balances on loans granted by the Administrator with the approval of the Advisory Council under the provisions of Section 4141.11 (A) and (A) (1), Revised Code, may be waived by the Administrator with the approval of said Council.

2. The Administrator may treat said unpaid amounts as outright grants.