

OPINION NO. 70-101**Syllabus:**

A school district is eligible to receive, if specific requirements are met, an amount in school foundation payments in one month no greater than the total payments approved by the Superintendent of Public Instruction for the next succeeding three months.

To: Martin Essex, Supt. of Public Instruction, Columbus, Ohio
By: Paul W. Brown, Attorney General, August 6, 1970

I have your request for my opinion which concerns the amount of advance school foundation payments authorized by Section 2 of Amended Substitute House Bill No. 1023. This section states in part:

"No distribution under this section shall cause any school district to receive more state aid in any month than it would otherwise have received in the next succeeding three months had the distribution been made in accordance with section 3317.01 of the Revised Code."

This section gives authorization to the Superintendent of Public Instruction to advance school foundation payments to certain districts if the Superintendent certifies that specified requirements are met. The Controlling Board can authorize the Superintendent to make an advance payment if the Director of Finance certifies funds are available to make the payment. If the Superintendent has certified that the criteria for an advance have been met and an advance is made, the amount would be limited to two months school foundation payments. The two months advance payments, coupled with the regular monthly payment, would constitute the maximum amount of said aid that a school district can receive in one month.

Section 3317.01, Revised Code, dealing with the administration of funds in the school foundation program, states in part:

"The amounts paid each month shall constitute as nearly as possible, one-twelfth of the total amount payable for the entire year. Payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent and amount to one or more additional approved classroom units as determined pursuant to section 3317.05 of the Revised Code."

Thus, the total amount of the payments to a school district in one month is limited to a sum no greater than the amount the school district would have received in the next succeeding three months. If this three-month determination period falls within the first six months of a fiscal year, the total amount would be based on an estimate of one-fourth of the amount payable for the entire year. If the three-month determination per-

iod, or any part thereof, falls within the second six months of a fiscal year, the amount per month would be adjusted in accordance with the provisions of Section 3317.01, supra.

A purpose of Amended Substitute House Bill No. 1023 is to prevent, insofar as possible, the closing or delay in opening of any public school. It is my opinion, therefore, and you are hereby advised that a school district is eligible to receive in one month; if the specified requirements of Amended Substitute House Bill No. 1023 are met, an amount in school foundation payments equal to the payments approved by the Superintendent of Public Instruction for the next succeeding three months. Thus, in July 1970, a district could receive a maximum amount no greater than the amount of the payments approved for August, September and October 1970. In August 1970, a district could receive a maximum payment no greater than the total approved for September, October and November 1970. Similarly, in September 1970, a district could receive, in the same manner, an amount no greater than the amount approved for October, November and December 1970. In October 1970, a district could receive an amount no greater than the amount approved for November and December 1970 and January 1971. At that point, a district would have received the total amount of school foundation payments to which the district was eligible through June 1971.