1970 O. A. G.

OFFICIAL OPINION NO. 32

December 1, 1970

Doctor William E. Lapar
State Representative
121 North Meridian Street
Winchester, Indiana 47394

Dear Representative Lapar:

This is in response to your request for my Official Opinion on the following question:

"Can the State payroll be paid bi-weekly, instead of the present semi-monthly method?"

ANALYSIS

The present practice of meeting the State payroll twice a month apparently stems from an informal agreement between the Governor and the Auditor several administrations ago. The question is not covered by statute, and there is nothing which could prevent these same two officers from agreeing to change pay periods for all State employees.

However, a problem could occur if the payroll were met every two weeks in that the final pay period in a fiscal year would seldom end simultaneously with the end of the fiscal year, and funds allocable to one fiscal year may not be used for payrolls in another fiscal year, as "no money shall be drawn from the Treasury, but in pursuance of an appropriation made by law." Ind. Const., Art. 10, Sec. 3; State v. Ristine (1863), 20 Ind. 345.

Therefore, the Legislature would have to allocate funds for the State payroll with the express provision that such funds could be used when the calendar pay period for the last pay period extends between two fiscal years. If the Legislature would so provide, then the Governor and the Auditor could agree to change the State payroll to a bi-weekly method.

CONCLUSION

It is, therefore, my opinion that the State payroll may be changed from a semi-monthly to a bi-weekly basis, by agree-
ment of the Governor and the Auditor, if and only if preceded by a Legislative Act specifically allocating funds to cover the situation where the payroll and the fiscal year do not end simultaneously.