Chapter 328

1957 REPLACEMENT PART

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COUNTY SCHOOL FUND

328.005 Tax for county school fund. To create a county school fund, each county court shall levy, at the same time other taxes are levied, a tax for school purposes upon all taxable property of the county. The tax shall produce at least $10 per capita for all children within the county between the ages of 4 and 20 years, as shown by preceding school census. The per capita amount so levied in any county shall not be less than the per capita amount of the school tax levied in the county for the year 1919.

328.010 Eligibility of districts to apportionment. (1) To be entitled to their proportion of the county school fund, school districts shall report to the county school superintendent annually within 15 days after the third Monday in June and shall have had a school taught in their district at least 160 days, exclusive of Saturdays and holidays, in each school year.

(2) The district school board of a district which could not maintain its school for the full 160 days during the preceding year may file a petition for apportionment with the county school superintendent not later than July 5. If the district boundary board determines from the petition that the school district exhausted every reasonable effort but was unable to maintain its school for the full 160 days, it may direct the county school superintendent to make the regular apportionment to such district.

(3) If it appears to the county school superintendent that closing of district schools was warranted on account of an epidemic of any contagious disease, such school district shall not for that reason be deprived of its portion of the county school fund.

(4) A new district shall not be required to have school taught in accordance with subsection (1) of this section for one year from the date of the district's organization.

328.015 Apportionment to districts. (1) The county school superintendent shall apportion the entire school fund then in the county treasury on the first Monday in December of each year. Each December he shall apportion from the county school fund, collected in pursuance of the school tax levied by the county court, $100 to each district and subdistrict in his county that has reported to him in accordance with ORS 328.010. The balance of the county school funds thereafter remaining in the treasury shall be apportioned among the several districts in his county that have reported to him as required by ORS 328.010, in proportion to the total number of children resident in each district between the ages of 4 and 20 years, as shown by the clerk's last annual report; and any balance accruing to the fund after the December apportionment shall be apportioned in the same manner at such other times during the year as the superintendent may deem advisable. If, at the time for the December apportionment, the county school fund is not sufficient to pay the required $100 to each district, he shall apportion the whole amount of such fund, in equal sums, among the several districts and subdistricts which have reported. As soon thereafter as the county school fund becomes sufficient for that purpose, he shall apportion to each district such sum as will make up the required $100 for that year.

(2) A school district that has suspended its school under ORS 332.130, shall be entitled to receive its apportionment on the same basis as if school were in session in the district. In such suspended district the apportionment, together with any apportionment from the State Elementary School Fund, shall be used only for tuition, transportation or the boarding of pupils and the total amount apportioned shall not exceed the reasonable cost of such tuition, transportation, or board.

328.020 Apportionment to district with average daily attendance less than six. No district whose average daily attendance for the preceding year was less than six shall be entitled to the apportionment provided for in ORS 328.015 unless the district suspends school under ORS 332.130, provided, that if the school board of any such district not in suspension files a petition with the county school superintendent not later than July 5, asking for the regular apportionment, and if the district boundary board determines that because of the district's remoteness from other schools it would be for the best interests of the pupils to allow a full apportionment, the district boundary board may, not later than July 15, direct the county school superintendent to make the regular apportionment in accordance with ORS 328.015.

328.025 Apportionment to joint districts. In the case of joint districts, the $100 required to be paid to each school district

in a county before any part of the county school fund is otherwise apportioned shall be paid to the joint district by the counties in which it lies in proportion to the total number of children of school age resident in each district between the ages of 4 and 20 years, as shown by the clerk's last annual report.

328.030 Partial apportionments. A county school superintendent may, upon the written request of any district school board, make a partial apportionment to any district of any money due it at the time of making a regular apportionment, and apportion the remainder at the next regular apportionment.

328.035 to 328.100 [Reserved for expansion]

DOUGLAS COUNTY SCHOOL FUND

328.105 Source; use of interest. The proceeds of all gifts, devises and bequests made to Douglas County for common school purposes shall be set apart as a separate and irreducible school fund, to be called the Douglas County School Fund, the interest of which shall be applied to the support and maintenance of all common schools in said county.

328.110 Custodian of fund. The county treasurer shall be the custodian of the Douglas County School Fund. His bond as treasurer shall include the honest and faithful performance of his duties as such custodian.

328.115 Loan of fund and rental of lands; disbursement of interest and rents. (1) The county treasurer shall loan the Douglas County School Fund in the manner provided by law at the best rate obtainable per annum and shall rent all lands owned by the county belonging to the fund. He shall pay the interest accruing from such loans and rent to the county school superintendent.

(2) The county school superintendent shall place the interest and rentals with other moneys the county receives for support of the common schools. He shall apportion and distribute the interest and rentals with, and in the same manner as, such other moneys.

328.120 Board of Douglas County School Fund commissioners. The judge, clerk and treasurer of Douglas County are appointed as a board of Douglas County School Fund commissioners. They shall approve all applications for loans as to title and value of security offered. The treasurer shall make no loan or lease any land until such board has given its approval.

328.125 Law concerning Common School Fund to apply. The laws governing the loaning of the Common School Fund of this state, so far as applicable and not in conflict with ORS 328.105 to 328.140 shall govern the loaning of the Douglas County School Fund.

328.130 Loans to be made in name of treasurer; collection of sums due. All loans shall be made in the name of the treasurer of Douglas County but for the benefit of the fund. The treasurer shall collect all sums due the fund in the manner provided by law.

328.135 Services of county officers to be without charge; expense of making loan. No officer of Douglas County shall charge or receive fees for any service performed in regard to the fund. All expenses of making a loan shall be paid for by the applicant.

328.140 Sale, rental or lease of property; disposition of proceeds. The board of Douglas County School Fund commissioners may sell and convey by deed, executed by all of said commissioners, any and all real property devised to Douglas County for common school purposes, whenever in the judgment of such board the interest of the school fund will be subserved by such sale, or may rent or lease the same when it deems best. The board may invest the proceeds of such sale as provided in ORS 328.115 to 328.135.

328.145 to 328.150 [Reserved for expansion]

COMMON SCHOOL FUND FOR DISTRICT NO. 1, KLAMATH COUNTY

328.155 Sources; use of interest. The proceeds of all gifts, devises and bequests made to School District No. 1, Klamath County, for common school purposes, for the use and benefit of said district shall be set apart as a separate and irreducible school fund, to be called the Common School Fund for District No. 1, Klamath County. The interest from the fund shall be applied to the support and maintenance of the common schools of said school district.

328.160 Custodian of fund. The clerk of Klamath County School District No. 1 shall be custodian of the Common School Fund for District No. 1, Klamath County. His bond as clerk shall include the honest and faithful performance of his duties as such custodian.

328.165 Investment and loan of fund and rental of lands; disbursement of interest and rents. (1) The board of common school fund commissioners for Klamath County School District No. 1 may invest all or part of the fund in bonds of the United States of America. With regard to any funds not so invested, the district clerk shall loan the fund in the manner provided by law at no less than four percent per annum and rent all lands owned by the district belonging to the fund.

(2) The interest accruing from such investments and loans and the rent of said lands, shall be placed by the clerk with other school district moneys and be distributed by the clerk with such other moneys in the manner provided by law and the order of the directors or trustees of the district.

328.170 Directors as fund commissioners. The directors of School District No. 1 of Klamath County are appointed as a board of common school fund commissioners for the district to approve all applications for loans as to title and value of the security offered. The security shall be real property in Klamath County of at least double the value of the loan. The clerk of the district shall make no loan or release any security without prior board approval.

328.175 Laws governing loans of Common School Fund to apply. The laws governing loaning of the Common School Fund of this state, so far as applicable and not in conflict with ORS 328.155 to 328.190 shall govern the loaning of the Common School Fund for District No. 1, Klamath County.

328.180 Loans to be made in name of clerk; collection of sums due. All loans shall be made in the name of the clerk of School District No. 1 of Klamath County, but for the benefit of the fund. The clerk shall collect all sums due the fund in the manner provided by law. The principal shall be reloaned.

328.185 Services of clerk to be without charge; expense of making loan. The clerk of the district shall not charge or receive fees for any services performed in regard to the fund. All expenses of making a loan shall be paid for by the applicant.

328.190 Sale and conveyance of property; disposition of proceeds. The board of directors of School District No. 1, Klamath County, may sell and convey by deed, executed by all the members of said board of directors, any and all real property devised to the district for common school purposes, or any and all real property acquired by the district in connection with the administration of said fund, whenever in the board's judgment the interests of the school fund will be subserved by such sale. The board shall pay over the proceeds of such sale to the clerk of the district to be invested the same as other moneys belonging to the fund.

328.195 to 328.200 [Reserved for expansion]

BONDS

328.205 School districts' power to contract bonded indebtedness. (1) School districts may contract a bonded indebtedness for the purpose of providing funds with which to acquire, to construct, to reconstruct, to improve, to repair, to equip, to furnish a school building or school buildings or additions thereto and to acquire all property, real and personal, appurtenant thereto or connected therewith, including school busses, or to fund or refund outstanding indebtedness, or for any one or combination of two or more of such purposes, and to provide for the payment of the debt.

(2) However, when a school district is found under ORS 327.130 to be not in compliance with the standards for elementary and secondary schools or when a school district is operating a conditionally standard school under subsection (2) of ORS 327.032, the school district may contract a bonded indebtedness only for the purposes enumerated in subsection (1) of this section that are approved by the Superintendent of Public Instruction. [Amended by 1957 c.658 §1]

328.210 School district bond elections. (1) To provide funds for the purposes for which a school district may contract a bonded indebtedness under ORS 328.205, any district school board may, whenever a majority thereof so decide, or shall, upon the petition of 10 percent or at least 100, whichever is the lesser number, of the legal voters of the school district in substantially the

form contained in subsection (2) of this section, direct the district clerk to give notice of election in substantially the form contained in subsection (3) of this section.

(2) Form of petition:

..... Oregon, ..., 19....

To the district school board of School District No. ..... of ..... County, Oregon:

We, the undersigned legal voters, respectfully request you to submit to the legal voters the question of contracting a bonded indebtedness in the sum of $..... for the purpose of ..... in and for said school district, and that you call a school district bond election for that purpose.

....

....

(3) Form of notice:

SCHOOL DISTRICT BOND ELECTION NOTICE

State of Oregon
County of ..... } ss.
School District No. .....

Notice hereby is given that at the school district bond election hereby called, to be held at ....., in and for School District No. ..... of ..... County, Oregon, ... the ..... day of ....., A. D. 19...., between the hours of 2 p.m. and 8 p.m. there will be submitted to the legal voters thereof the question of contracting a bonded indebtedness in the sum of $..... for the purpose of .... in and for said school district.

The vote shall be by ballot upon which shall be the words "Bonds Yes" and "Bonds No," and the voter shall place a cross (x) between the word "Bonds" and the word "Yes," or between the word "Bonds" and the word "No," whichever indicates his choice.

The polls for the reception of the ballots cast for or against the contraction of said indebtedness will, on said day and date and at the place aforesaid, be opened at the hour of 2 p.m. and remain open until the hour of 8 p.m. of the same day, at which hour the same shall be closed.

By order of the district school board of school district No. ..... of ..... County, Oregon, made this ..... day of ....., A. D. 19.....

..... Chairman, District School Board.

Attest:

....., District Clerk.

[Amended by 1957 c.658 §2]

328.215 Notice of bond election in school districts. Notice of the school district bond election shall be given as provided in ORS 331.010. [Amended by 1957 c.310 §3]

328.220 Bond election officials; duties. Immediately prior to opening the polls, the legal voters present shall convene, the chairman or some other member of the district school board calling the meeting to order, and elect three judges and a clerk, who shall conduct the election and, when the polls are closed, canvass the vote and certify the result to the district school board, the county treasurer and the county superintendent. In districts of the first class, county high school districts and union high school districts, the election shall be conducted as provided in ORS 331.320.

328.225 Bonds of school districts having at least 20,000 school age children; issue; election; notice. In school districts having at least 20,000 children of school age, bonds may be issued on an affirmative vote by a majority of those voting on the question at any school election. The district school board of such district may submit propositions for bond issues. Notice thereof shall be given by publication once each week for four successive weeks in two or more daily papers having a circulation of not less than 10,000 in such district.

328.230 Issue of bonds upon favorable vote. If a majority of the ballots cast in a school district bond election are marked "Bonds—Yes," the district school board, without further vote of the legal voters and as soon as practicable, shall issue negotiable coupon bonds of the district.

328.235 Interest rate; signature; signed interest coupons. The bonds shall:

(1) Bear no more than legal interest, payable semiannually.

(2) Be signed by the chairman of the district school board and attested by the district clerk.

(3) Have annexed interest coupons bearing the original or facsimile signatures of the chairman of the district school board and district clerk.

328.240 Place of principal and interest payment. The principal and interest on school district bonds are payable in lawful money of the United States of America at

the office of the treasurer of the county in which the major portion of the assessed valuation of the district is located at the time the bonds are issued.

328.245 Limitation of bonded debt of school districts generally. (1) The aggregate amount of such district bonded indebtedness, including indebtedness authorized under ORS 328.285 and ORS 335.460, shall not exceed:

(a) For each grade from the first to eighth for which the district operates schools, fifty-five one hundredths of one percent of the total value of all taxable property in the district, determined in accordance with subsection (2) of this section.

(b) For each grade from the ninth to twelfth for which the district operates schools, seventy-five one hundredths of one percent of the total value of all taxable property in the district, determined in accordance with subsection (2) of this section.

(c) For a community or junior college, as defined in ORS 335.906, operated by the district, one and one-half percent of the total value of all taxable property in the district, as determined in accordance with subsection (2) of this section, but the additional indebtedness authorized under this paragraph may be used only for the purposes of the community or junior college.

(2) The "total value of all taxable property in the district" means the value determined by increasing the assessed value to the true cash value, using as a basis of computation the percentage of true cash value at which property within the county or counties in which the district is located was assessed for state and county purposes, as indicated in the table of assessed valuations of counties filed by the State Tax Commission with the Secretary of State during 1956, pursuant to ORS 309.370.

(3) Notwithstanding the limitations of subsection (1) of this section, a district's bonding capacity shall not be less than its maximum bonding capacity as of January 1, 1957.

(4) Paragraph (c) of subsection (1) of this section and subsection (3) of this section shall not be considered in any determination of the district's bonding capacity or statutory bond limitation for the purposes of any provision in the 1957 Act providing for grants-in-aid to school districts for the construction of school buildings but any such determination shall be based only on paragraphs (a) and (b) of subsection (1) of this section and subsections (2) and (5) of this section.

(5) If an appropriation is made by the Forty-ninth Legislative Assembly in regular session by the enactment of an Act providing for grants-in-aid to school districts for the construction of school buildings, the limit of bonded indebtedness or bonding capacity of a school district, as determined under paragraphs (a) and (b) of subsection (1) of this section and subsection (3) of this section, shall be reduced until July 1, 1959, by one and two-tenths percent of such limit for each $500,000, or major part thereof, appropriated by such Act for the biennium commencing July 1, 1957. [Amended by 1953 c.697 §2; 1955 c.325 §1; 1957 c.639 §1]

Note: Subsections (4) and (5) of ORS 328.245 are not applicable because House Bill No. 480, 1957 regular session, which is referred to in subsections (4) and (5) of ORS 328.245, was not enacted by the Legislative Assembly.

328.250 Limitation on bonded indebtedness of consolidated or reorganized school districts. In any school district created by consolidation or reorganization, the amount of bonded indebtedness and negotiable interest-bearing warrant indebtedness which may be incurred under ORS 328.245 shall be reduced by the amount of pre-reorganization, pre-consolidation bonded indebtedness and negotiable interest-bearing warrant indebtedness for which any school district included in a consolidated or reorganized school district remains liable.

328.255 Registration of bonds and negotiable interest-bearing warrants; delivery; disposition of proceeds; noncontestability. The county treasurer shall register each school district bond, including refunding bonds, and negotiable interest-bearing warrants in a book kept for that purpose in his office, noting the school district, amount, date, time and place of payment, rate of interest and such other facts as may be deemed proper. He shall cause the bonds or warrants to be delivered promptly to the purchasers thereof upon payment therefor, and if the place of delivery is outside the city in which the county treasurer's office is situated the cost of delivery of the bonds or warrants shall be paid by the issuing school district. Except where the county school district clerk is custodian of school district funds under subsection (2) of ORS 328.441, the county treasurer shall hold the proceeds of the sale of the bonds or warrants

subject to the order of the district school board to be used solely for the purpose for which said bonds or warrants were issued. When the county school district clerk is custodian of school district funds under subsection (2) of ORS 328.441, the treasurer, as soon as practicable, shall deliver the proceeds of the sale of the bonds and warrants to the clerk. When the bonds or warrants have been so executed, registered and delivered, their legality shall not be open to contest by the school district or by any person or corporation for or on its behalf, for any reason whatever. [Amended by 1953 c.236 §2; 1955 c.312 §1]

328.260 Tax levy to pay interest and principal of bonds; use of funds derived from tax. (1) The district school board shall ascertain and levy annually, in addition to all other taxes, a direct ad valorem tax on all the taxable property in the school district, sufficient to pay the maturing interest and principal of all serial school district bonds promptly when and as such payments become due. The amount of the tax may be increased by an amount sufficient to retire any bonds which may be callable. The board shall in each year include such taxes in the school district budget for such year. Such taxes shall in each year be certified, extended upon the tax rolls and collected by the same officers in the same manner and at the same time as the taxes for general county purposes.

(2) The funds derived from such tax levies shall be retained by the county treasurer without being paid to the school district or to any officer thereof, and shall be kept by him in a separate fund to be known as and designated "School District No. —— Bond Interest and Sinking Fund," which shall be irrevocably pledged to and used solely for the payment of the interest accruing on and the principal of the bonds when due, so long as any of the bonds or the coupons thereto appertaining remain outstanding and unpaid. The interest earnings of such fund shall be credited thereto and become a part thereof. For failure to retain and account for such funds, as provided in this section, the county treasurer shall be liable upon his official bond.

(3) The fund shall not be diverted or used for any other purpose; but if a surplus remains after all interest and principal have been paid on all serial school district bonds then outstanding and unpaid, the surplus may be transferred to such other fund as the district school board may direct. [Amended by 1955 c.467 §1]

328.265 School district bond tax to be levied by county court upon failure of district school board. (1) The district school board of each school district having an outstanding bond issue shall file annually with the county treasurer a copy of the school district budget and tax levy.

(2) If the tax required by ORS 328.260 is not levied by the district school board, the county treasurer shall certify the amount necessary to the county court or county board of commissioners who shall then levy a tax on all taxable property in the appropriate school district sufficient to raise the required amount.

(3) The county assessor shall extend the tax so levied upon the county tax rolls for such school district. The county sheriff shall collect this tax and pay the sums collected into the county treasury to the credit of the fund established by ORS 328.260.

328.270 Payment of principal and interest; collection commission prohibited. (1) The county treasurer must cause to be paid out of any money in his hands belonging to the school district, the interest on or principal of, as the case may be, any bond issued by the district promptly when and as the same becomes due at the place of payment designated in such coupons or bonds. All coupons or bonds so paid must be immediately reported to the district school board.

(2) No county treasurer or district school board shall pay to the purchaser of any bond issued by a school district, or to any agency representing such purchaser, any commission whatsoever for the collection of the interest on or principal of any such bond. The county treasurer shall not be required to remit to the purchaser of any bonds or coupons the amount necessary to redeem them until the day such bonds or coupons are due.

328.275 Redemption and payment of school bonds. (1) Whenever the sinking fund mentioned in ORS 328.260 equals the amount, principal and interest, of any bond then due or subject under the pleasure or option of the school district to be paid or redeemed, the county treasurer of the county in which such school district is located shall notify the holder of such bond and publish a notice in the newspaper published nearest

to the district that the county treasurer will, within 30 days from the date of the notice, redeem and pay any such bond then redeemable and payable, giving priority according to the date of issuance numerically. Upon presentation of any such bond at the place of payment specified therein, the treasurer shall cause the bond to be paid. If any holder of such bond fails to present it at the time mentioned in the notice, the interest thereon shall cease, and the treasurer shall thereafter pay only the amount of such bond and the interest accrued thereon up to the last day of the time of redemption mentioned in the notice.

(2) When any bonds are so redeemed or paid, the county treasurer shall cause the same to be canceled and write across the face thereof "redeemed" and the date of redemption, and shall deliver it to the district school board of such school district, taking its receipt therefor.

(3) Each county treasurer and the sureties on his official bond as such, shall be liable to any school district in his county for any funds placed in the hands of such treasurer in connection with the school district's bond issue.

328.280 Funding or refunding district indebtedness. (1) Whenever any school district has any outstanding negotiable interest-bearing warrant indebtedness or bonded indebtedness incurred in building or furnishing any schoolhouse, or for the purchase of any schoolhouse site, or in refunding bonded indebtedness, or in funding warrant indebtedness, which is due or subject under the pleasure or option of the school district to be paid or redeemed, the school district, by and through its district school board, may issue and exchange, for any such indebtedness, its bonds bearing not to exceed legal interest per annum; or may issue and sell such bonds and apply the proceeds of such sale in payment of the indebtedness for the payment of which said refunding bonds are proposed to be issued.

(2) Refunding bonds issued under subsection (1) of this section shall in all respects conform to, and be governed, as to their issue, by the provisions of ORS 328.210 to 328.220, 328.230 to 328.250 and 287.008 regardless of the exemption by ORS 287.008 of bonds issued to refund outstanding bonds. Such refunding bonds shall constitute a charge upon the same character of revenues or other assets as were applicable to the bonds refunded.

(3) The refunding of indebtedness and issuing of bonds for such purpose shall not require an election, but may be done by resolution of the district school board at any legally called board meeting. The debt limitations imposed by law shall not affect the right of any school district to issue refunding bonds under authority of this section. The validity of any bonds so issued, or of the indebtedness thereby refunded, shall not thereafter be open to contest by the school district, or by any person, or corporation, for or on its behalf, for any reason whatever.

328.285 Issuance of negotiable interest-bearing warrants. (1) When authorized by a majority of the legal voters present and voting by ballot at any legally called school meeting, the district school board may contract a district debt for an amount not to exceed $5,000 and which together with outstanding bonded indebtedness shall not exceed five percent of the value of the taxable property of the district, for the purpose of building, furnishing or repairing school buildings, purchasing land for school purposes, or for purchasing school busses, and issue negotiable interest-bearing warrants of their district, evidencing such debt, and fix the time of payment of the warrants. They may, not oftener than once a year, levy a tax on the taxable property of the district to pay the warrant interest or principal when due, which taxes shall be collected in the same manner as other school taxes. These warrants shall be sold, and the principal and interest provided for and paid when due in the manner provided by law for bonds issued under ORS 328.205 to 328.275.

(2) Negotiable interest-bearing warrants issued under this section are a type of bond.

328.290 Necessity of determining whether bonds or warrants are to be issued. Before any election is held in any school district to authorize the contraction of a bonded indebtedness, or any bonds are issued under the provisions of ORS 328.280, the district school board shall decide whether the bonds shall be issued according to the provisions of ORS 328.285 or the provisions of ORS 328.210 to 328.220 and 328.230 to 328.270, and the bonds shall be issued under the provisions so selected by the board.

328.295 Sale of bonds and interest-bearing warrants. All school bonds, including funding and refunding bonds, notes and negotiable interest-bearing warrants authorized by vote of the electors at a legally called school meeting, shall be advertised for sale for at least two weeks in a newspaper printed in the county in which the issuing district is situated. All bids shall be in writing and publicly opened at the time and place specified in the advertisement, and the bonds shall be sold by the board to the highest bidder. If the bids are not satisfactory the board may reject any or all of them and re-advertise as provided in this section. No bonds, notes or negotiable interest-bearing warrants shall be sold for less than par and accrued interest.

328.300 [Reserved for expansion]

328.305 [Repealed by 1957 c.53 §3]

328.310 [Repealed by 1957 c.53 §3]

328.315 [Repealed by 1957 c.53 §3]

328.320 [Repealed by 1957 c.53 §3]

328.325 [Repealed by 1957 c.53 §3]

328.330 [Repealed by 1957 c.53 §3]

328.335 [Repealed by 1957 c.53 §3]

328.340 [Repealed by 1957 c.53 §3]

328.345 [Repealed by 1957 c.53 §3]

328.350 [Repealed by 1957 c.53 §3]

328.355 [Repealed by 1957 c.53 §3]

328.360 [Repealed by 1957 c.53 §3]

328.365 [Repealed by 1957 c.53 §3]

328.370 [Repealed by 1957 c.53 §3]

328.375 [Reserved for expansion]

328.380 [1953 c.72 §1; repealed by 1957 c.53 §3]

328.385 to 328.400 [Reserved for expansion]

ACCOUNTS AND DISBURSEMENTS; AUDITS

328.405 County school superintendent's account with county treasurer and school districts. The county school superintendent shall keep a book in which he shall open an account with the county treasurer and with the several school districts. He shall charge the treasurer with all the school funds going into his hands; and when the treasurer presents to him the district clerk's receipts, he shall credit the treasurer with the amount. When the superintendent has made any apportionment of the school funds, he shall credit each district with the amount set apart to it; and on receiving the receipt of a district clerk from the treasurer, he shall charge the amount to such district.

328.410 County treasurer's annual report of school funds. Each county treasurer shall make an annual report to the county school superintendent of all school funds coming into and paid out of the treasury. The treasurer shall retain all the superintendent's orders which the treasurer has paid, and produce these orders at the annual settlement with the superintendent.

328.415 School district books and accounts as public records. The books and accounts of the school district clerk are public records and shall be subject to inspection at any and all proper times.

328.420 Annual audit procedure. (1) Each school district clerk shall present, on the first Monday in July of each year, his books and accounts to the district boundary board of the county in which the school building for the district of which he is clerk is located. The district boundary board shall secure the services of one or more competent accountants, who shall audit the books and accounts of the district clerks and file with the district boundary board a statement setting forth the financial condition of each school district.

(2) The district boundary board shall thereupon direct the county school superintendent to draw a warrant upon the county school fund in favor of the accountants in payment of said audit, except that for union high school districts or county high school districts, such payment shall be made by the county treasurer upon direction of the district boundary board, and charged to the account of such high school district. The county school superintendent shall be responsible for the return of the books and accounts of the district clerk, together with a copy of the auditor's report, written 15 days following completion of the audit. At the time of the next apportionment of funds to the various districts from county school funds there shall be deducted from the sum

apportioned to any district the amount paid from the fund for the audit of the books of such district.

(3) The county school superintendent shall give the school district clerks due notice of the requirements of this section on or before the date of the annual school meeting each year.

328.425 Failure of clerk to present books for audit. If any school district clerk fails to present his books for audit on or before August 1 of any year, any member of the district boundary board shall have power to issue subpenas and require the clerk to produce the books and accounts. If the clerk fails to comply with the order of the boundary board or any member thereof or any subpena issued under this section, the circuit court of any county, or the judge thereof, on application of a member of the boundary board, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpena issued from such court on refusal to testify therein. The district clerk shall be liable on his official bond for all costs and expenses incurred by the boundary board or any member thereof in connection with such proceedings.

328.430 Audits in first class, union high and county districts. First class districts, union high school districts and county school districts operating under ORS chapter 333 may employ accountants to audit the books and accounts of the clerks of such districts. In these cases, the accountants shall file an audit statement with the district boundary board on or before August 1 of the year in which they are employed. [Amended by 1957 c.110 §1]

328.435 Audits in districts containing 20,000 school age population. The county auditor shall, at least once each year and oftener if requested by the school board, make or cause to be made an audit of the books of the clerk of any district in his county having more than 20,000 children of school age. The expense of making such audit shall be paid by the district school board of such district on certificate of the amount thereof by the county auditor.

328.440 [Repealed by 1953 c.89 §6]

328.441 Custody and disbursement of school district funds. (1) The school clerks of first, second and third class districts and union high school districts shall be custodians of school funds of their respective districts. Such funds shall be disbursed only by the clerks in the manner provided by subsection (1) of ORS 328.445.

(2) A county school board, by resolution entered in their record of board proceedings, may appoint the county school district clerk as custodian of the school district funds. In such case, subsections (1), (2) and (3) of this section shall apply to the county school district and subsection (4) of this section shall not apply.

(3) For the purpose of receiving deposits of school funds, the district school board of each district provided for in subsections (1) and (2) of this section shall designate such bank or banks within the county or counties in which the district is located, as the board deems safe and proper depositories for school district funds. The school clerks shall not be liable personally or upon their official bonds for moneys lost by reason of failure or insolvency of any bank which becomes a depository under this subsection.

(4) The county treasurer shall be custodian of funds of all school districts other than those provided for in subsections (1) and (2) of this section. School district funds in the county treasurer's custody shall be disbursed only upon warrants drawn on the county treasurer by the district school board in the manner provided by law.

(5) The proceeds of the sale of school district bonds or warrants shall be used solely for the purpose for which the bonds or warrants were issued, including reduction of existing bond or warrant indebtedness. [1953 c.89 §§2, 3, 4; 1955 c.312 §2]

328.445 Disbursement of school funds by check or warrant. (1) When funds are available for payment, school district obligations shall be paid by check bearing the original signature of the custodian of the district school funds; or if authorized by the district school board, the custodian's facsimile signature. Warrants in payment of school district obligations shall be issued only when marked "Not paid for want of funds" as provided in ORS 328.455. For districts not utilizing the centralized accounting and purchasing service operated by a superintendent of schools, the minutes of board meetings at which claims are approved for payment by the board are sufficient as an order authorizing payment of such approved claims.

(2) Where a statute specifies a warrant as the means by which school district obligations shall be paid, warrant means "check" if funds are available for payment.

328.450 School warrant issue procedure. School warrants shall not be issued without a vote of the district school board. They must be drawn and signed by the chairman of the board and countersigned by the district clerk. If the chairman is absent or unable to execute the warrants, the board may authorize any member of the board to act as chairman in executing the warrants.

328.455 Issue and payment of school warrants marked "Not Paid for Want of Funds." (1) If there is no money in the treasury, school warrants shall be marked "Not Paid for Want of Funds." Unless the district school board has designated a lower rate of interest, which rate must appear on the face of the warrants, warrants so marked shall draw the legal rate of interest from date of indorsement until paid.

(2) When any school warrants have been indorsed "Not Paid for Want of Funds," funds thereafter becoming available for payment of the warrants shall be applied in payment in the order in which the warrants were so indorsed.

328.460 Cancelation of school warrants not presented for payment within seven years. (1) At the last regular district school board meeting preceding July 1 in each year, the district clerk shall certify to the board a list of all school district warrants which were called for payment more than seven years prior to July 1 next following the meeting, and which have not been paid; stating the amount of each of such warrants, to whom issued, and date of issuance. The board thereupon shall cause to be published in some newspaper published in the district and having a general circulation therein, or if no newspaper is published in the district, then in some paper published in the county in which the school district is located having a general circulation in the district, a notice that if such warrants are not presented for payment within 60 days from said July 1, they will be canceled, and payment thereof will be refused.

(2) At the first regular meeting of the board in each school district after the expiration of 60 days from July 1 in each year, the board shall make an order that all such warrants which have not been so presented for payment, describing them, shall be canceled. The district clerk shall, in the presence of the board, cancel all such warrants which were called for payment more than seven years prior to July 1 of that year.

(3) This section shall not prohibit the district board, in its discretion, from paying, upon any claim arising from the canceling of any such warrant, the principal of the warrant when presented without interest if not indorsed for want of funds and, if indorsed for want of funds, with interest to the date such warrant was called.

328.465 to 328.500 [Reserved for expansion]

BUDGETS AND TAXES

328.505 First class district budget procedure. In conformity with ORS 294.305 to 294.415, the district school board of each first class school district shall prepare a budget for the ensuing year of such sums of money as it may deem necessary for the maintenance, operation and support of the school system of the district. The budget shall be published according to forms prescribed and furnished by the Superintendent of Public Instruction. [Amended by 1953 c.146 §1]

328.510 [Repealed by 1953 c.146 §2]

328.515 Third class district budget procedure. (1) The district school board of each third class school district shall make out and deliver to the school clerk of the district annually an itemized budget of the amount of revenues required for maintaining the district schools for the fiscal school year beginning in July of the calendar year in which the budget is made, which budget shall be signed by the board at a legally called board meeting.

(2) Before a meeting is held for the purpose of levying taxes, the clerk shall publish and post the budget in the manner provided in ORS 331.010. [Amended by 1957 c.310 §4]

328.520 Budgeting for textbooks. Each district school board, at the time of making its annual budget, shall determine from its records the number of pupils residing in its district and enrolled in and actually attending standard elementary schools, during the school year ending in June prior to the time of making the budget. Each board shall set aside in its annual budget a sum sufficient

to supply adopted textbooks to each child so enrolled and actually attending standard elementary schools or grades seven or eight of standard secondary schools. The funds so set aside in the budget shall be expended by the board during the year in which the budget is effective, in the purchase of textbooks for the free use of such pupils until sufficient textbooks have been acquired to supply all such pupils with the free use thereof. Thereafter the board shall budget annually only such amount as is necessary for replacement of worn-out textbooks, purchase of necessary additional textbooks and to provide for the care and custody of the textbooks owned by such district. [Amended by 1955 c.486 §1]

328.525 Procedure if district school board fails to budget for free textbooks. If any district school board in any year fails to provide a fund for the purchase of textbooks as provided by ORS 328.520, the county superintendent of the county in which the district is located shall include in the budget of the district for that year a sum for the purchase of textbooks, to be determined by him in the manner set out in ORS 328.520, and in that event the district school board, if it is a first class district, or the county court of the county in which such district is located, if it is a second or third class district, shall levy, at the same time it levies other taxes, a tax on all taxable property of the district which will produce an amount sufficient to meet the budget item for the purchase of such textbooks.

328.530 Taxing power of first class districts. (1) The school board of a first class school district shall have power to levy a tax once each year upon all real and personal property in such school district for the maintenance, operation and support of the district public school system.

(2) In all school districts having 20,000 or more children of school age, the district school board hereby is authorized to fix the tax to be levied for the support of the district.

328.535 Taxing power of school meetings. (1) Legally called district meetings shall have power to levy a tax upon all real and personal property in their district and make any necessary appropriation for the support and benefit of schools, if the call for such meeting contained an itemized budget showing the contemplated expenditures. No tax shall be levied at any special meeting unless the call for the meeting stated that one of the purposes of the meeting would be the levying of a tax.

(2) A copy of the itemized budget shall be submitted to the county school superintendent.

328.540 Tax elections in first class districts with less than 100,000 inhabitants. (1) Except as otherwise provided by ORS 328.530, in first class school districts having less than 100,000 inhabitants, instead of submitting the question of levying a tax to the district voters at a district meeting, the question shall be submitted at an election called by the district school board and held in the same manner as an election for directors in first class districts.

(2) A register of the names of those voting, certified to by the judges and clerks, shall be made a part of the record of the meeting.

328.545 Review of third class district tax levies. A tax levied by a third class district may be reviewed and lowered by the district boundary board of the county, but no tax so levied shall be lowered except after hearing upon at least 10 days' written notice of the time and place of hearing to the district affected and to any person complaining. The district or any taxpayer thereof feeling aggrieved by the decision of the district boundary board may take and perfect an appeal from said decision to the circuit court in the following manner and not otherwise:

(1) The appellant may cause a notice signed by himself or his attorney to be filed with the county clerk within five days, excluding Sunday, from the time of the district boundary board's decision.

(2) Within five days of the giving of such notice the appellant shall file with the clerk of the circuit court a transcript of the petition for review of the tax levy, or so much of the record of the district boundary board as may be necessary to intelligently present the questions to be decided by the circuit court, together with a copy of the order or action taken by the district boundary board, the notice of appeal and record of the filing thereof; thereafter the circuit court shall have jurisdiction of the matter but not otherwise.

(3) The appeal shall be heard and determined as an equitable cause by the circuit court in a summary manner. Either the appellant or the appellee shall be entitled to

the compulsory attendance of witnesses and to the production of books and papers. If, upon hearing, the court finds the tax levy was made fairly and in good faith, it shall approve such levy; but if it finds that the tax levy was excessive or insufficient or if the same was not made fairly or in good faith, it shall set aside such levy and determine the proper amount thereof, and a certified copy of the order or judgment of the circuit court shall be sufficient warrant for the levying and collecting of such taxes against the property of the district.

(4) No proceedings for the levying or collection of taxes against any property shall be stayed by reason of the taking or pendency of the appeal from the district boundary board or appeal to the Supreme Court. If the levy is decreased by the court on appeal the tax collector shall refund to the person paying taxes on the property any excessive amount of taxes collected. If the levy is increased by the court on appeal the property shall be liable for the deficiency on the account of such increase.

(5) Either party may appeal to the Supreme Court from any final order or judgment of the circuit court. The appeal shall be taken, perfected, heard and determined in the same manner as an appeal from a decree of the circuit court. The provisions of the law governing costs and disbursements on appeal shall be applicable thereto.

328.550 Serial levies in excess of constitutional limitations in districts having over 100,000 population. Any school district having a population of more than 100,000 inhabitants, upon the approval of a majority of the electors of such school district voting upon the question at any regular primary or general election, is authorized to levy taxes serially for its general fund outside the limitation imposed by section 11, Article XI, Oregon Constitution, over such period of time not to exceed two years and in such stated amounts each year as are authorized by the electors.

328.555 Property liable for district indebtedness; tax levy. (1) All taxable property in a school district at the time any indebtedness is incurred by such district and all taxable property subsequently located in the area comprising such district shall be liable to taxation for the payment of such indebtedness until paid.

(2) No taxable property in territory included in a school district whose boundaries change as a result of creation, annexation, abolition and other alteration of the school district shall be relieved from liability for any indebtedness incurred prior to a boundary change. The district school board of the district in which are located the school facilities for which the indebtedness was incurred shall levy an annual tax on all taxable property in such territory sufficient to meet the interest payments and retire the indebtedness, but no tax levy shall be necessary as long as other provisions are made for the payment of the indebtedness.

328.560 Election to establish new tax base. (1) The district school board of any school district may, by resolution duly passed at a regularly called meeting, submit to the voters of said district the proposal to establish a new tax base under section 11, Article XI, Oregon Constitution. The notice for such election shall be in substantially the following form:

NOTICE OF ELECTION TO ESTABLISH NEW TAX BASE

State of Oregon }
County of } ss.
School District No. }

Notice hereby is given that, at the school district tax base election hereby called, to be held at ————, in and for school district No. —— of ———— County, Oregon, the ——— day of ————, 19——, between the hours of ———— and ————, there will be submitted to the legal voters thereof the question of establishing a new tax base for said school district. The present tax base is ————, the new tax base if adopted will be ————.

The vote to be by ballot upon which shall be the words "Shall School District No. —— of ———— County, Oregon, increase its tax base from $———— (present base) to $———— (proposed new base)?

———— Yes, I vote for the new tax base.

———— No, I vote against the new tax base."

And the voter shall place a cross (X) before the word "Yes," or before the word "No," whichever indicates his choice.

The polls for the reception of the ballots cast for or against the establishment of said new tax base will, on said day and date and at the place aforesaid, be opened at the hour of ———— and remain open until the hour of ———— of the same day, at which hour the same shall be closed.

By order of the district school board of School District No. ——— of ——————— County, Oregon, made this ——— day of ——————, 19——.

Attest:

.....
District Clerk

.....
Chairman, District School Board.

(2) The notice for the election shall be given as provided in ORS 331.010.

(3) Immediately prior to opening the polls, the legal school voters present shall convene, the chairman or some other member of the district school board calling the meeting to order, and elect three judges and a clerk, who shall conduct the election and, when the polls are closed, canvass the vote and certify the result to the district school board, the county treasurer and the county superintendent; provided, however, that in districts of the first class, county high school districts and union high school districts, the election shall be conducted as provided in ORS 331.320.

(4) In lieu of the judges and clerks prescribed by subsection (3) of this section, the district school board may designate the election judges and clerks for the state-wide general or primary election as the judges and clerks for the tax base election. [1953 c.286 §1; 1957 c.310 §5; 1957 c.426 §2]

328.565 to 328.985 [Reserved for expansion]

PENALTIES

328.990 Penalties. Violation of any of the provisions of ORS 328.005 to 328.441 or 328.450 to 328.545 is a misdemeanor.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel