

# Chapter 327

## 1979 REPLACEMENT PART

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## BASIC SCHOOL SUPPORT FUND

**327.005** [Repealed by 1957 c.612 §1 (327 006 enacted in lieu of 327.005)]

**327.006 Definitions for ORS 327.006 to 327.133.** As used in ORS 327.006 to 327.053, 327.059, 327.063 and 327.072 to 327.133:

(1) "Aggregate days membership" means the sum of days present and absent, according to the rules of the State Board of Education, of all resident pupils when school is actually in session during a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the basis of a half-day program.

(2) "Average daily membership" means the aggregate days membership of a school during a certain period divided by the number of days the school was actually in session during the same period. However, if a district school board adopts a class schedule that operates throughout the year for all or any schools in the district, average daily membership shall be computed by the Department of Education so that the resulting average daily membership will not be higher or lower than if the board had not adopted such schedule.

(3) "Capital outlay" means any expenditure by a school district for materials of any sort, except replacements, which increase the value of the school plant or equipment.

(4) "Debt service" means any payment made by a school district as a result of the issuance of bonds or negotiable interest-bearing warrants authorized by the voters of the district.

(5) "Kindergarten" means a kindergarten program that conforms to the standards and rules adopted by the State Board of Education.

(6) "Net operating expenditures" means the sum of expenditures of a school district in kindergarten through grade 12 for administration, instruction, attendance and health services, operation of plant, maintenance of plant, fixed charges and tuition for resident students attending in another district, as determined in accordance with the rules of the State Board of Education, but net operating expenditures does not include transportation, food service, student body activities, community services, capital outlay, debt service or expenses incurred for nonresident students.

(7) "Resident pupil" means any pupil whose legal school residence is within the boundaries of a school district reporting him,

if the district is legally responsible for his education, except that "resident pupil" does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the district does not pay tuition.

(8) "Standard school" means a school meeting the standards set by the rules of the State Board of Education.

(9) "True cash value" means the amount obtained by dividing the assessed value of the property within the district, as shown upon the assessment roll as of January 1 of the calendar year in which the last preceding fiscal year of the school district commenced for which a valuation has been certified pursuant to ORS 311.105, by the appropriate assessment ratio or ratios, as shown in the statement filed by the Department of Revenue with the Secretary of State pursuant to ORS 309.370. However, where schools for all 12 grades are not operated or provided for by the same district, eight and one-third percent of the true cash value shall be attributed to a district for each grade. [1957 c 612 §2 (enacted in lieu of 327.005), 1957 c.708 §4; 1959 c.388 §1; 1963 c 142 §1; 1965 c 100 §14; 1971 c.395 §2; 1973 c.750 §16; 1973 c.827 §26; 1977 c.840 §1; 1979 c 259 §1]

**327.010 Basic School Support Fund; policy; purpose.** (1) It is the policy of the Legislative Assembly in appropriating money to the Basic School Support Fund to appropriate for 1979-1980 the amount of \$849.60 per pupil in average daily membership in that year and to make appropriations to the fund in subsequent years based on an annual rate of growth of that amount by nine percent or the percentage rate of increase in the Consumer Price Index, as defined in ORS 327.075, for the preceding year, whichever is the lesser. In making the estimate under ORS 327.094, the Superintendent of Public Instruction shall be guided by this policy to avoid making excessive estimates.

(2) The Basic School Support Fund shall be used exclusively for the improvement and support of standard public elementary and secondary schools and shall be distributed to equalize educational opportunities and conserve and improve the standards of public elementary and secondary education. Distribution shall be made to school districts which meet all legal requirements and which maintain and operate a standard school or which contract with another standard district for the education of its students.

(3) The Basic School Support Fund hereby is appropriated for carrying out the provisions of ORS 327.035, 327.042, 327.059 and 327.063. [Amended by 1957 c.626 §2; 1963 c.570 §1; 1965 c 100 §15; 1979 c.277 §2]

**327.012** [Repealed by 1957 c.626 §1]

**327.014** [1953 c.547 §1; 1957 c.626 §3; 1957 s.s. c 2 §1; 1961 c.622 §1, 1963 c.570 §1a; 1965 c.100 §16; 1965 c 528 §1; 1969 c.625 §1; repealed by 1971 c.22 §4]

**327.015** [Repealed by 1957 c.612 §18]

**327.018** [1957 c 612 §7 (enacted in lieu of 327.085); 1959 c.388 §2; 1965 c.100 §19; renumbered 327.059]

**327.020** [Repealed by 1957 c 612 §8 (327 024 enacted in lieu of 327 020)]

**327.024** [1957 c.612 §9 (enacted in lieu of 327.020), 1959 c 388 §3, 1965 c.100 §20, renumbered 327 063]

**327.025** [Repealed by 1957 c.612 §3 (327.028 enacted in lieu of 327.025)]

**327.028** [1957 c 612 §4 (enacted in lieu of 327 025); 1957 c.708 §5, 1959 c 388 §4; 1965 c.100 §22, renumbered 327 075]

**327.030** [Repealed by 1957 c.612 §18]

**327.032** [Formerly 327.070; 1965 c.100 §28; renumbered 327 103]

**327.035 Transportation, board and room apportionment.** (1) Of the moneys in the Basic School Support Fund, the Superintendent of Public Instruction shall set aside a sum equal to 60 percent of the total approved cost of all school districts within the state for pupil transportation, or board and room in lieu of transportation, that was expended two years prior to the year of apportionment to be distributed in accordance with subsection (2) of this section.

(2) Upon approval of the Superintendent of Public Instruction, and in compliance with rules of the State Board of Education, each school district which provides pupil transportation to and from school, or board and room in lieu of transportation, and meets approved standards of safety, efficiency and operation, shall be entitled to transportation aid from the transportation account on the basis of the approved cost for such services in the year next preceding the year of apportionment. The transportation account shall be apportioned among all eligible districts in the proportion that the approved cost of each bears to the approved cost of all districts in the state.

(3) Depreciation of original cost to the district of district-owned busses shall be included in new cost computation under subsection

(1) of this section but shall not be allowed in excess of 10 percent per year.

(4) Apportionments under this section shall be made at the same time as other apportionments of the Basic School Support Fund. [Amended by 1953 c.108 §3; 1957 c.612 §10; 1959 c 388 §5; 1963 c.142 §2; 1965 c.100 §17; 1965 c.323 §1; 1971 c.107 §1]

**327.038** [1957 s.s. c.2 §3; repealed by 1959 c 388 §15]

**327.040** [Repealed by 1957 c.612 §18]

**327.042 Adjusted apportionment for growth or loss in enrollment.** (1) There shall be apportioned to each school district the basic grant amount computed under subsection (2) of ORS 327.059 for each additional resident pupil reported for the current year in excess of the number reported over the previous year.

(2) For the purposes of subsection (1) of this section, the increase in resident pupils shall be determined by subtracting the number of resident pupils in the previous school year as shown by the final report of the district for that year from the number of resident pupils in the district in the quarter ending December 31 of the current school year as shown by the December quarterly report required under ORS 327.133.

(3) There shall be apportioned to each school district the basic grant amount computed under subsection (2) of ORS 327.059 multiplied by the product of the decrease in resident pupils times 75 percent.

(4) For the purposes of subsection (3) of this section, the number of decrease in resident pupils shall be determined by subtracting the number of resident pupils in the district in the quarter ending December 31 of the current school year as shown by the December quarterly report required under ORS 327.133 from the number of resident pupils in the previous school year as shown by the final report of the district for that year. [1957 c.708 §2, 3; 1959 c 388 §6; 1963 c.570 §1d, 1965 c.100 §18; 1969 c.625 §2; 1971 c 21 §1; 1971 c.107 §2; 1973 c.750 §4; 1977 c 840 §2]

**327.045** [Repealed by 1957 c.626 §1]

**327.046** [1961 c 502 §10; repealed by 1963 c.570 §33]

**327.048** [1961 c.502 §6; repealed by 1963 c.570 §33]

**327.050** [Amended by 1957 c.612 §11; repealed by 1963 c 570 §33]

**327.052** [1961 c 408 §1; repealed by 1963 c 570 §33]

**327.053 Computation and distribution of amounts available under various apportionments.** From the funds appropriated to the Basic School Support Fund in any given year, the Superintendent of Public Instruction shall set aside such funds as are appropriated for ORS 327.056 and such funds as are necessary to meet the obligation stated in ORS 327.035, 327.042 and 327.059. The remainder shall be distributed to satisfy the obligation stated in ORS 327.063. [1965 c.100 §18a, 1973 c.750 §5; 1977 c.840 §3]

**327.055** [Repealed by 1963 c.570 §33]

**327.056 Minimum apportionment to districts.** Subject to the limits of funds appropriated for the implementation of this section, no district shall be apportioned less for any year subsequent to the 1977-1978 fiscal year than was estimated for the 1977-1978 fiscal year. If the funds appropriated for the implementation of this section are insufficient to meet the obligation incurred by this section, each eligible district shall receive its pro rata share of the funds available for distribution under this section. [1977 c.840 §4]

**327.057** [1957 c.556 §11; repealed by 1963 c.570 §33]

**327.058** [1959 c.528 §§4, 11; 1961 c.500 §1; repealed by 1963 c.570 §33]

**327.059 Basic grant apportionment.** (1) From those funds set aside under ORS 327.053 to meet the obligation provided for in this section, each district shall be apportioned 30 percent of its approved program as determined in ORS 327.075. However, except for approved small schools, no district shall be apportioned an amount in excess of 30 percent of the basic education program limit stated in subsection (3) of ORS 327.075.

(2) The dollar amount per resident average daily membership of the basic grant for purposes of the apportionment in ORS 327.042 for each district shall be determined by dividing the district's basic grant by the district's average daily membership as of June 30 of the preceding year. [Formerly 327.018; 1969 c.625 §3; 1971 c.21 §2, 1973 c.750 §6; 1977 c.840 §5]

**327.060** [Amended by 1955 c.766 §1; repealed by 1963 c.570 §33]

**327.062** [1955 c.103 §2, repealed by 1963 c.570 §33]

**327.063 Equalization apportionment.** (1) As used in this section "local district contribution" means the sum of:

(a) Federal Forest Reserve Receipts allocated to schools under ORS 294.060;

(b) Common School Fund Receipts; and

(c) The true cash value of the taxable property in the district multiplied by the adjusted tax rate of the district. For purposes of this computation, the Superintendent of Public Instruction shall determine the highest uniform tax rate per \$100 of approved program which will result in the distribution within practical limits of the amount available for the apportionment under this section. This tax rate shall be adjusted for each district by multiplying the highest uniform tax rate times the quotient of the district's approved basic education program per resident average daily membership divided by 100. No district's adjusted tax rate shall exceed the adjusted tax rate that would be produced by using the basic education program limit as defined in subsection (3) of ORS 327.075.

(2) There shall be apportioned to each school district any positive difference remaining after the apportionment provided in ORS 327.059 and the local district contribution are deducted from the approved cost of the basic education program.

(3) Any funds remaining after the apportionment is made under subsection (2) of this section shall be added to the amount of the Basic School Support Fund to be apportioned the following year. [Formerly 327.024; 1969 c.270 §1; 1969 c.625 §4; 1971 c.107 §3; 1973 c.750 §7; 1977 c.840 §6; 1979 c.259 §2]

**327.065** [Amended by 1953 c.444 §11; 1953 c.711 §4; 1955 c.766 §2; 1957 c.328 §1; 1959 c.397 §1; 1961 c.537 §1; repealed by 1963 c.570 §33]

**327.067** [1957 c.219 §3; 1961 c.537 §2, repealed by 1963 c.570 §33]

**327.068** [1957 c.642 §§4, 7; 1959 c.388 §7; repealed by 1963 c.570 §33]

**327.069** [1957 c.620 §1, 1959 c.388 §8; 1961 c.625 §1; part renumbered 330.630; repealed by 1963 c.570 §33]

**327.070** [Amended by 1957 c.658 §3; renumbered 327.032 and then 327.103]

**327.071 Education service district school support apportionment.** (1) Upon receipt of the certification of the amount of school support from the education service districts required by ORS 334.262, the Superintendent of Public Instruction shall apportion the education service district school support amount to the common and union high school districts in proportion to the estimated basic school support amounts computed for each district under ORS 327.094 as compared to the

total thereof for all such school districts in the education service district.

(2) On or before August 15, the Superintendent of Public Instruction shall certify the amount apportioned to each common or union high school district under subsection (1) of this section to the education service district.

(3) On or before August 15, the Superintendent of Public Instruction shall certify to each county assessor the amount it will pay to each education service district for local school support levied under ORS 334.262 and certified to the Superintendent of Public Instruction. The county assessor shall subtract from the levy submitted by the education service district the amount of local school support and shall extend on the assessment roll in each case no more than the remainder as the education service district's levy for the current fiscal year. [1977 c 840 §7a]

**327.072 Basis for computing apportionments.** Except as otherwise specifically provided in ORS 327.042, the amount of the various apportionments provided in ORS 327.042, 327.059, 327.063 and 327.075 shall be determined from data contained in the reports of the several school districts for the year ending June 30 prior to the time of making such apportionment. [Amended by 1957 c 612 §12, 1963 c 570 §4; 1965 c.100 §21, 1969 c.625 §5, 1973 c.750 §8]

**327.074** [Amended by 1965 c.100 §26, renumbered 327 097]

**327.075 Determination of approved cost of basic education program.** (1) Except as provided in subsection (2) of this section or as limited in subsection (3) of this section, the approved cost of the basic education program shall be the net operating expenditures of each district as defined in subsection (6) of ORS 327.006 for the year prior to the year of apportionment.

(2) (a) The cost of the basic education program may be computed in a different manner in the case of a school which is approved as qualified for a small school correction.

(b) A school may qualify for a small school correction if the average daily membership in grades one through eight or in grades 9 through 12 is below 100 and the State Board of Education, after receiving not later than August 1 a petition from the school district board, determines that the school's continued existence is justified because of physiographic conditions which make transportation to an-

other school not feasible or because of sparsity of population. Where sparsity of population is the determining factor, no elementary school shall qualify if it is within 10 miles by the nearest traveled road from another elementary school and no high school shall be considered if it is located within 15 miles by the nearest traveled road from another high school. Where a school's continued existence is found not to be justified because of its proximity to another school, the district operating that school shall be notified in writing by the State Board of Education that, for the purpose of distributing basic school support moneys, it will not be considered eligible for the small school correction as defined in this subsection. Such notice shall be sent to school districts not later than September 30, with the advice that this provision of law shall take effect in the following school year, unless an appeal, setting forth reasons why such action should not be taken, is submitted within 30 days of receipt of the notice by the school district to the State Board of Education and is approved by that body. Upon receipt of such appeal, the State Board of Education shall review the reasons set forth in such appeal and, if it deems it necessary, may direct the Department of Education to hold a hearing to help determine if the district's continued existence is necessary. Not earlier than 60 days nor later than 90 days after receipt of the written appeal, the State Board of Education shall notify the district if its appeal has been approved or disapproved.

(c) The amount of the small school correction shall be adjusted annually by the State Board of Education in a manner consistent with the change in the basic education program level.

(d) The amount of the small school correction shall be added to the cost of the basic education program for the school district.

(3) Except for approved small schools, the limit of approved cost of the basic education program per average daily membership for the fiscal year 1979-1980 shall be \$1,913. In subsequent years, the limit shall be adjusted by an amount equal to 109 percent of the limit of the preceding year or by 100 percent plus the percentage rate of increase in the Consumer Price Index for the preceding calendar year, whichever is the lesser.

(4) As used in this section and in ORS 327.010 "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the Portland, Oregon, Standard Metro-

politan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics. [Formerly 327.028; amended by 1969 c 625 §6, 1977 c 840 §7; 1979 c.277 §7]

**327.076** [Repealed by 1965 c.100 §456]

**327.080** [Amended by 1957 c.612 §13; 1963 c 570 §5; repealed by 1965 c 100 §456]

**327.082 Kindergarten apportionment.**

(1) School districts which operate kindergartens that conform to the standards and rules adopted by the State Board of Education shall be eligible for apportionments from the Basic School Support Fund on the basis of resident average daily membership in the kindergartens.

(2) The apportionments shall be paid in the same manner as other apportionments from the Basic School Support Fund are paid. Computation of the amounts due each district operating a kindergarten shall be made by the Superintendent of Public Instruction pursuant to rules of the State Board of Education. The rules shall establish a method of computation that is consistent with the method of computation of other apportionments from the Basic School Support Fund. [1973 c.707 §6]

**327.085** [Repealed by 1957 c.612 §6 (327.018 enacted in lieu of 327.085)]

**327.090 Apportionments as revenue; limitation on use.** The amount to be received from the Basic School Support Fund shall be included as revenue in the budget of each school district. No part of such fund shall be apportioned and distributed to apply as an offset to a school district tax levy. [Amended by 1959 c.388 §10; 1963 c.570 §6; 1965 c 100 §27]

**327.091** [1957 c 626 §8, repealed by 1963 c.570 §33]

**327.092** [1957 c 626 §9; repealed by 1963 c.570 §33]

**327.093** [1957 c 626 §10, repealed by 1963 c.570 §33]

**327.094 Estimate of apportionments; excess moneys.** (1) On the first Monday in March of each year, the Superintendent of Public Instruction shall make an estimate of the amount each school district shall receive from the Basic School Support Fund for the next fiscal year.

(2) If the Superintendent of Public Instruction determines that there is an excess available for apportionment to any district over the amount estimated to be available under subsection (1) of this section, the excess shall not be distributed to the school district in the fiscal year for which apportionment is

made but shall be held and added to the apportionments to the district in the following fiscal year.

(3) Additional apportionments made under subsection (2) of this section shall be subject to ORS 327.090.

(4) Appropriations to the Basic School Support Fund for the second year of a biennium shall serve as the basis of the estimate required by this section for the first year of the succeeding biennium. [Subsections (1) and (2) enacted as 1957 c.626 §13, subsection (3) of 1957 Replacement Part enacted as 1957 s.s. c.2 §4 (3); 1959 c 388 §11; 1963 c 570 §7; 1965 c.100 §25; subsection (4) enacted as 1971 c 22 §3]

**327.095 Time of payment of apportionments; disposition of funds.** (1) Except as provided in subsection (2) of this section, funds due school districts under ORS 327.035, 327.059 and 327.063 shall be paid approximately 25 percent on August 15, approximately 25 percent on November 15, approximately 25 percent on February 15 and the balance on May 15. An equitable apportionment based on the most recent data available shall be made on August 15, November 15 and February 15. If such payments are too high or too low, appropriate adjustments shall be made in the May 15 payments. However, if the reports required by ORS 327.133 have not been received from any district when due, no further apportionments shall be made to such district until such reports are filed.

(2) A portion of the August 15 and November 15 payments due school districts that adopt a class schedule that operates throughout the year for all or any schools in the district shall, at the option of such district, be paid on July 15 and September 15. The portion of funds that are paid on July 15 and September 15 shall be in the same proportion that the average daily membership of the schools that operate throughout the year bears to the total average daily membership of the school district.

(3) Any school district that operates a school throughout the year and wants payments on July 15 and September 15 as provided in subsection (2) of this section shall apply to the Superintendent of Public Instruction prior to July 1 for such payment. The superintendent shall prescribe uniform application forms for such purpose.

(4) The payments required under subsection (1) of this section shall be disbursed as follows:

(a) The payments shall first be made through the education service district for local school support as computed by the Superintendent of Public Instruction in ORS 327.071 to the extent that funds are available for that quarterly payment.

(b) If not all funds are disbursed under paragraph (a) of this subsection which are payable to a school district in any quarter, the remainder due the districts for that quarter shall be paid directly to the district. [Amended by 1953 c.108 §3; 1957 c.612 §14; 1959 c.388 §12; 1965 c.100 §24; 1975 c.196 §1; 1977 c.280 §1; 1977 c.840 §8]

**327.097 Apportionment where district changed.** Where any territorial or organizational change in a school district has occurred between the date of the report and the apportionment, the Superintendent of Public Instruction shall make the payment on an equitable basis to the districts the territory or organization of which has been changed. [Formerly 327.074]

**327.100** [Repealed by 1963 c.570 §33]

**327.103 Standard school presumed; correction of deficiencies.** (1) All school districts are presumed to maintain a standard school until the school has been found to be deficient by the Superintendent of Public Instruction.

(2) If any deficiencies are not corrected before the beginning of the school year next following the date of the finding of deficiency and if an extension has not been granted under subsection (3) of this section, the school district shall be ineligible to receive any apportionment from the Basic School Support Fund until such deficiencies are corrected.

(3) Within 90 days of the finding of deficiency, a school district found not to be in compliance shall submit a plan, acceptable to the Superintendent of Public Instruction, for meeting standardization requirements. When an acceptable plan for meeting standardization requirements has been submitted, the Superintendent of Public Instruction may allow an extension of time if he determines that such deficiencies cannot be corrected or removed before the beginning of the next school year following the adoption of, and levy of a tax under a budget. However, no extension shall be granted if it is possible for a district to correct the deficiency through merger. For the period of the extension of time under this subsection, the school shall be considered a conditionally standard school.

(4) Any district failing to submit a plan within the time specified shall receive no further Basic School Support Fund moneys until a plan acceptable to the Superintendent of Public Instruction is submitted irrespective of the district's being given one year in which to levy a tax. [Formerly 327.032]

**327.105** [Repealed by 1963 c.570 §33]

**327.110** [Amended by 1955 c.537 §1; repealed by 1957 c.322 §1]

**327.115** [Amended by 1955 c.385 §1; 1959 c.388 §13; repealed by 1963 c.570 §33]

**327.120 Correction of errors in apportionments.** The Superintendent of Public Instruction may correct, in a succeeding year, any errors in apportionment by the withholding of the amount of an overapportionment or by the payment of an underapportionment from funds to be apportioned.

**327.125 Superintendent to administer ORS 327.006 to 327.133; board rules.** The Superintendent of Public Instruction shall administer the provisions of ORS 327.006, 327.053, 327.059, 327.063 and 327.072 to 327.133. The State Board of Education may adopt and promulgate all necessary rules not inconsistent with ORS 327.006 to 327.133 to carry into effect the provisions of those statutes. [Amended by 1963 c 570 §8; 1965 c 100 §29]

**327.130** [Repealed by 1965 c.100 §456]

**327.133 Reports by districts.** (1) Each school district, other than an education service district, shall file with the Superintendent of Public Instruction:

(a) By July 15 of each year, an annual report covering the school year ending on the preceding June 30; and

(b) By January 15, of each year, a December quarterly report covering the quarter of the current school year commencing October 1 and ending December 31.

(2) Each such report shall show the average daily membership of resident pupils of the district for the period covered and shall also contain such other information as the Superintendent of Public Instruction may require. [Formerly 327.200; 1973 c.750 §9]

**327.135** [Amended by 1955 c 660 §27; 1957 c.612 §15; repealed by 1963 c.570 §33]

**327.137 Audit statements filed with department; effect of failure to file or insufficiency of statement.** Every common or union high school district shall file a copy

of its audit statement with the Department of Education within six months of the end of the fiscal year for which the audit is required. If the audit report, as submitted to the district, fails to provide the detail necessary for the computation required in the administration of ORS 327.006, 327.042 to 327.071, 327.075, 327.095, 328.542, 334.262 to 334.264, 334.270, 530.115 and this section, the district shall submit the necessary information on forms provided by the Superintendent of Public Instruction within the time prescribed for filing the audit in this section. Any district failing to file a copy of its report under this section or ORS 327.133 shall not receive any payments from the Basic School Support Fund until such reports are filed. [1965 c.199 §1; 1977 c.840 §9]

**327.140** [Amended by 1955 c.314 §1; 1957 c.612 §17; repealed by 1963 c.570 §33]

**327.145** [Amended by 1957 c.626 §4; repealed by 1963 c.570 §33]

**327.150** [Amended by 1955 c.314 §2; repealed by 1963 c.570 §33]

**327.155** [Repealed by 1955 c.314 §3]

**327.160** [Repealed by 1963 c.570 §33]

**327.200** [1957 c.612 §16; 1959 c.388 §14; 1965 c.100 §23; renumbered 327.133]

**327.205** [Repealed by 1957 c.626 §1]

**327.210** [Repealed by 1957 c.626 §1]

**327.215** [Repealed by 1957 c.626 §1]

**327.220** [Repealed by 1957 c.626 §1]

**327.225** [Repealed by 1957 c.626 §1]

**327.230** [Repealed by 1957 c.626 §1]

**327.255** [Repealed by 1957 c.626 §1]

**327.260** [Repealed by 1957 c.626 §1]

**327.265** [Repealed by 1957 c.626 §1]

**327.270** [Repealed by 1957 c.626 §1]

**327.275** [Repealed by 1957 c.626 §1]

**327.280** [Repealed by 1957 c.626 §1]

**327.285** [Repealed by 1957 c.626 §1]

## COMMON SCHOOL FUND

**327.403 Definition for ORS 327.405 to 327.480.** As used in ORS 327.405 to 327.480, unless the context requires otherwise, "administrative office for the county" means the administrative office of the education service district, the county school district, or the ad-

ministrative school district which includes an entire county. [1965 c.100 §30]

**327.405 Common School Fund; composition and use.** The Common School Fund shall be composed of the proceeds from the sales of the 16th and 36th sections of every township or of any lands selected in lieu thereof, all the moneys and clear proceeds of all property which may accrue to the state by escheat or forfeiture, the proceeds of all gifts, devises and bequests made by any person to the state for common school purposes, the proceeds of all property granted to the state when the purpose of such grant is not stated, all proceeds of the sale of submerged and submersible lands as described in ORS 274.005, and all proceeds of the sale of the 500,000 acres of land to which this state is entitled by an Act of Congress approved September 4, 1841, and of all lands selected for capitol building purposes under Act of Congress approved February 14, 1859. All such proceeds shall become a part of the Common School Fund, the interest from which shall be exclusively applied to the support and maintenance of common schools in each school district. All lawful claims for repayment of moneys under the provisions of ORS 98.302 to 98.436, or out of escheated estates and for attorney fees and all other expenses in any suit or proceeding relating to escheated estates shall be audited by the Division of State Lands and paid from the Common School Fund Account. [Amended by 1957 c.670 §31; 1965 c.100 §31; 1969 c.338 §3]

Note: See note under 98.302

**327.410 Apportionment of Distributable Income Account of Common School Fund to counties.** The Division of State Lands shall, on July 1 of each year, and often if deemed advisable, apportion the balance of the Distributable Income Account established under ORS 273.105, after deductions authorized by law, among the several counties in proportion to the number of children resident therein between the ages of 4 and 20 as determined pursuant to ORS 190.510 to 190.610. The amount apportioned to each county shall, within 30 days, be placed in the custody of the county treasurer, who shall report the same to the administrative office for the county for distribution among the school districts of the county. [Amended by 1965 c.100 §32, 1967 c.421 §200; 1971 c.294 §2]

**327.415 Apportionment to school districts.** Within two weeks after receipt from the Division of State Lands of the county's share of the Common School Fund, the executive officer of the administrative office for the county shall apportion the fund among the several districts in the county. As soon as any such apportionment has been made, the county treasurer shall draw warrants on the county treasury in favor of the districts for their respective shares, and transmit the warrants to the boards thereof. However, the county treasurer shall not issue or transmit any such warrant to any board until the bond for the person designated as custodian of the funds of the district has been received, examined and approved by the executive officer of the administrative office for the county and filed as a part of the records thereof. [Amended by 1963 c 544 §16; 1965 c 100 §33; 1971 c.294 §1]

**327.420 Basis of apportionment.** (1) The basis of all apportionments of the Common School Fund shall be the reports of the resident average daily membership for the preceding fiscal year as reported by the district to the administrative office for the county and on file therein at the time of making such apportionments.

(2) In the case of a joint school district, the resident average daily membership reported to the administrative office of the counties comprising the district shall be prorated between the counties as the resident enrollment of the district is prorated between the counties. [Amended by 1965 c.100 §34; 1971 c.294 §3]

**327.425 Loans and investment of funds; determination of interest rate.** (1) All moneys belonging to the Common School Fund and not required to meet current expenses shall be loaned by the Division of State Lands at a rate of interest fixed by the division except as otherwise specified in paragraph (c) of subsection (2) of ORS 348.050. The division may consult with and obtain the recommendation of the Oregon Investment Council in fixing the interest rate.

(2) Common School Fund moneys may be loaned in accordance with the repayment plan contained in ORS 327.440 and in subsections (2) and (3) of 348.050, except that loans on property within the corporate limits of towns or cities shall be payable in not more than 15 years on the amortization plan.

(3) If at any time there is a Common School Fund surplus over and above all loans applied for, such portion of the surplus as the

division deems proper may be invested as provided in ORS 293.701 to 293.776. The division may require the State Treasurer to deposit any such surplus, until it is able to loan same, in qualified state depositories, upon the same terms and conditions as other public funds are deposited therein, in which event any interest received from any such state depository shall be credited to the fund on which such interest was earned.

(4) Except as provided in subsection (2) of ORS 348.050, the division may reduce the rate of interest to be paid upon outstanding loans from the Common School Fund and any trust fund placed in its charge, to correspond with the rate of interest to be paid upon new loans, but no reduction in rate of interest shall be made upon any of the loans until interest at the old rate has been paid in full to date of receipt of remittance at the office of the division. [Amended by 1963 c.326 §2; 1965 c.100 §35; 1965 c.532 §5; 1967 c.335 §38; 1969 c.413 §1]

**327.430 Security for loans.** (1) The principal and interest of all loans shall be paid in lawful money of the United States.

(2) Except for loans to students authorized by ORS 348.050, loans shall be secured by note specifying the fund from which the loan is made and mortgage to the Division of State Lands on improved land within this state, or upon range or grazing land therein. Except as provided in ORS 273.815, the security for a secured loan shall be not less than twice the value of the amount loaned, and, except as otherwise provided in subsection (3) of this section, shall be of unexceptional title and free from all encumbrances. A secured loan may be secured by a deposit of obligations of the United States or of bonds or warrants of this state of a face value of not less than 25 percent in excess of such loans.

(3) The division is not prohibited by subsection (2) of this section from making a secured loan merely because the land securing the loan is:

(a) Situated in an irrigation district, taking into consideration the amount of bonded indebtedness of the district as compared with the valuation of the real property of the district.

(b) Subject to a reservation of mineral rights.

(c) Subject to a lease of any kind.

(d) Subject to a statutory lien for public improvements.

(e) Subject to an easement. [Amended by 1955 c.352 §1, 1959 c.90 §1; 1963 c.326 §1; 1963 c.517 §6; 1965 c.229 §1; 1965 c.532 §6]

**327.435 Ascertainment of value and title of security.** The Division of State Lands shall adopt methods, rules and regulations for ascertaining the value of and state of the title of any lands proposed as security for any loan under the provisions of ORS 327.425 and 327.430. All expenses of ascertaining title shall be borne by the applicant. The division may establish fees to be paid by the applicant for the appraisal of any property offered as security. [Amended by 1965 c.229 §2]

**327.440 Loan repayment.** Secured loans authorized by ORS 327.430 shall be repaid in semiannual, quarterly or monthly instalments, as may mutually be agreed upon between the borrower and the Division of State Lands, and the instalments shall aggregate each year an amount equal to one year's interest on the original principal of the loan plus an additional two percent of the original principal sum, except as provided in ORS 327.425. Of the instalment so paid each year, the amount at the specified interest rate on the principal remaining unpaid shall be credited as interest and the balance credited to reduction of the loan principal. Borrowers from the fund shall have the right to make payments in excess of the amounts of such instalments, and the further right at any time to pay off such loans in part or full with interest to payment dates. [Amended by 1965 c.532 §7]

**327.445 Custody of securities for loan; collection of interest.** The Division of State Lands shall have custody of all notes, bonds and other securities covering secured loans made by it from any fund. The division shall take proper measures for the prompt collection of interest due on all loans from any such fund and place it to the credit of the fund from which the loan was made, to be paid out as provided by law. [Amended by 1965 c.532 §8]

**327.450 Foreclosure of mortgages given to secure loans.** (1) The Division of State Lands shall foreclose all mortgages taken to evidence loans from the Common School Fund or other funds whenever more than one year's interest on the loan is due and unpaid or whenever any mortgage becomes inadequate security for the money loaned. The division may foreclose its mortgage in the

event of waste or any other impairment of the property upon which the loan was made. It may also foreclose for delinquency in payment of principal or interest instalments or in payment of taxes on such property.

(2) The division may bid in the land in the name of the state at a price not to exceed the total amount of the state's claim or they may accept a deed or a release of the equity of redemption. Should it appear to the satisfaction of the division that the mortgagee cannot make the payment of interest and that foreclosure would work an injustice and that foreclosure is not then necessary to secure the fund from loss, the division may extend the time for paying such interest not exceeding two years. [Amended by 1965 c.100 §36]

**327.455 Record of purchases by Division of State Lands on foreclosures; resale or lease of land; disposition of proceeds.** The Director of the Division of State Lands shall keep a correct record of all purchases on foreclosures under ORS 327.450 with a description of the lands so purchased or acquired, and a statement of the fund to which they belong. Such lands shall be placed in the hands of the director and sold or leased under the direction of the division on the best terms obtainable, and the proceeds, to the amount of the principal of the loans, shall be paid into the fund from which the loans were made, and the excess paid to the interest account of that fund.

**327.465 Cancellation of unpaid taxes after deed to state in liquidation of loan.** Whenever the Division of State Lands receives a deed to the State of Oregon of lands covered by a mortgage given to secure a loan from the Common School Fund in liquidation of the debt represented by the loan, the division shall send a written notice of the transaction to the county court of the county in which such deeded lands are situated. Upon the receipt of such notice, the county court shall cancel on the county tax records unpaid taxes levied and assessed against such property in that county. This section does not apply to tax liens of irrigation or drainage districts organized prior to the effective date of the lien of the division.

**327.470 Cancellation of taxes on land acquired through foreclosure proceedings; right of redemption.** (1) Excepting tax liens of irrigation or drainage districts organ-

ized before the effective date of the Division of State Lands' lien whenever the State of Oregon acquires property or lands through foreclosure of a mortgage given to secure a loan from the Common School Fund and the state has received the sheriff's deed made as a result of such foreclosure proceedings and the period for redemption has expired, the county court, or board of county commissioners, of the county in which such lands are situated shall cancel on the county tax records all the unpaid taxes levied and assessed against the property.

(2) At the time the sheriff issues a certificate of sale in the foreclosure proceedings of any division mortgage, he shall serve a copy of the certificate upon the county judge, or the chairman of the board of county commissioners, of the county in which the foreclosure takes place. The county shall have a 60-day period from the date of the sheriff's certificate in which to redeem the land by paying the division the full amount of its investment in the land, including principal and interest, foreclosure charges, abstracting expense, and any other necessary expense incurred by the division in said foreclosure proceedings.

**327.475 When county court may acquire mortgaged lands deeded to state.** Whenever the Division of State Lands receives a deed as described in ORS 327.465, the county court of the county in which the lands are situated may, within one year from the recorded date of such deed, acquire from the state the property so conveyed by paying to the state the total amount of the state's investment in the property.

**327.480 Use of Common School Fund moneys to comply with decree canceling fraudulent deed.** (1) Where the court decree in a suit instituted by the State of Oregon to cancel and set aside any deed of lands from the State of Oregon alleged to have been procured by fraud and in violation of law grants relief to the State of Oregon which is conditioned on the payment of money, the Division of State Lands may pay from the Common School Fund the sum necessary to comply with the conditions of the decree.

(2) This section shall not be considered as a legislative interpretation relieving the defendants in such suit from applying to the legislature for repayment of the purchase price of such land, or that the State of Oregon is not entitled to an accounting from the purchaser, his assignee, or successor in interest,

for school or other lands obtained in violation of law, or that the State of Oregon must repay the purchase price of such lands, with or without interest as a condition of obtaining relief. This section is intended to prevent the loss to the State of Oregon of lands obtained in violation of law, where the court imposes as a condition for granting relief the payment of money. [Amended by 1965 c.100 §37]

**327.482 Appropriation to reimburse fund for any loss.** Out of the moneys in the General Fund, there is continuously appropriated such sums as are necessary but not to exceed \$100,000 in total to reimburse the Common School Fund for any loss which may result from the failure of any student to repay the amounts loaned to him under ORS 348.050, and for any amount which may result from the failure of loans to earn at least four percent interest. The computation required to determine the interest earned on the loans shall be made annually and the amount required to reimburse the fund shall be paid annually. [1965 c.532 §9; 1967 c.477 §1]

**327.483** [1963 c.570 §32a; repealed by 1965 c.100 §456]

**327.484 Reimbursement for loss or failure to earn four percent interest.** Moneys may be withdrawn periodically from the General Fund by order of the Division of State Lands to be credited to the Common School Fund to reimburse the Common School Fund for any loss which may result from the failure of any student to repay the amounts loaned to him under ORS 348.050 and annually on July 1 to pay to the Common School Fund any amount resulting from the failure of the total student loans to earn at least four percent interest in the preceding fiscal year. [1965 c.532 §11, 1967 c.335 §39; 1967 c.477 §2]

## EDUCATION CASH ACCOUNT

**327.485 Education Cash Account; composition; accounting.** (1) The Education Cash Account of the General Fund consists of all moneys made available to the Department of Education by:

(a) Charitable and philanthropic foundations, organizations and agencies, which have not been dedicated for specific use by requirements of other sections of Oregon Revised Statutes;

(b) Miscellaneous receipts;

(c) Collection of fees from sale of supplies and publications compiled and furnished by the Department of Education and distributed or sold to other persons or groups;

(d) Funds received as gifts, contributions and bequests for vocational education and moneys received as reimbursements for funds theretofore expended;

(e) Moneys received through issuance fees from graduate equivalency certificates;

(f) Moneys received through charges to grants, contracts and other funds for indirect costs;

(g) Any other nondedicated moneys received by the Department of Education for which the Legislative Assembly has established an administrative funds limitation; and

(h) The provisions of this section do not relieve the department of its responsibilities to separately account for moneys received as trust funds.

(2) Disbursements from the Education Cash Account shall be made as directed by the Department of Education. The department shall keep a record of all moneys deposited in such account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity against which each withdrawal is charged. [1961 c.588 §1; 1965 c.100 §38; 1979 c.570 §3]

**327.490 Projects contracted to school districts and institutions of higher learning.** The State Board of Education may contract with school districts and any institutions of higher learning in this state for the purpose of carrying out any phase of a project for which funds granted under ORS 327.485 are available and may reimburse such districts and institutions from such funds. The board may make advance payments to the contracting school districts or institutions based on the estimated cost of any service to be provided. Any payment to a school district shall not be subject to the provisions of ORS 294.305 to 294.520. [1961 c.588 §5]

**327.495 Appropriation of funds received for certain purposes.** All moneys received by the State Board of Education for distribution to school districts and any institutions of higher education in this state for the purpose of carrying out experimental and demonstration programs to improve teaching

and teacher education in this state are hereby continuously appropriated for such purpose. [1961 c.588 §6; 1965 c.100 §39]

### MISCELLANEOUS (Commodity Programs)

**327.505** [Repealed by 1965 c.100 §456]

**327.510** [Repealed by 1965 c.100 §456]

**327.515** [Repealed by 1965 c.100 §456]

**327.520 Acceptance and distribution of donated commodities to schools.** The Superintendent of Public Instruction may accept and distribute donated commodities available for either public or private nonprofit educational institutions, subject to state or federal law or regulation relating to such acceptance and distribution. He shall make a charge sufficient to cover but not exceed all costs of distribution to the individual schools. The charge may include administrative expenses, freight, warehousing, storing, processing and transshipment to the end that all participating schools shall receive such donated commodities at the same unit cost irrespective of location of the school with respect to the original point of delivery within the state.

**327.523 Acceptance and distribution of donated commodities to elderly.** Subject to applicable state or federal law or regulation, the Superintendent of Public Instruction may accept and distribute donated commodities to nonprofit nutrition programs for the elderly. The superintendent shall make a charge sufficient to cover but not to exceed all costs of distribution to program locations as designated by the State Program on Aging. The charge may include administrative expenses, freight, warehousing, storing, processing and transshipping to the end that all participating programs shall receive such donated commodities at the same unit cost irrespective of location of the program with respect to the original point of delivery within the state. [1975 c.87 §1]

**327.525 School Lunch Revolving Account.** The School Lunch Revolving Account of the General Fund is continuously appropriated for the purposes of ORS 327.520 and 327.523. All money received under the provisions of ORS 327.520 and 327.523 shall be paid by the superintendent to the State Treasurer for credit to the School Lunch Revolving Account. [Amended by 1965 c.100 §40; 1975 c.87 §2]

327.530 [Repealed by 1965 c.100 §456]

### (Federal Aid to Education)

327.555 [1953 c.273 §2; repealed by 1959 c.654 §3]

327.560 [1953 c.273 §3; repealed by 1959 c.654 §3]

327.565 [1953 c.273 §4; repealed by 1959 c.654 §3]

327.570 [1953 c.273 §5; repealed by 1959 c.654 §3]

327.575 [1953 c.273 §6; repealed by 1959 c.654 §3]

327.605 [Amended by 1959 c.654 §1; 1961 c.624 §5; repealed by 1965 c.100 §456]

327.610 [Repealed by 1965 c.100 §456]

**327.615 State Treasurer as trustee of funds.** The State Treasurer shall serve as trustee of any federal aid to education funds apportioned to the State of Oregon.

**327.620 Review of accounts affecting federal funds; warrants.** The Executive Department shall cause a review to be made of the accounts and financial affairs of the Superintendent of Public Instruction affecting any funds acquired from the Federal Government to aid education, in the same manner and under the same conditions as provided by law for the review of state departments and institutions. The department shall draw warrants on the State Treasurer in payment of all duly incurred and approved claims which are available from such funds. [Amended by 1975 c.614 §10]

327.625 [Repealed by 1965 c.100 §456]

327.630 [Amended by 1961 c.624 §6; repealed by 1965 c.100 §456]

**327.635 Labor standards required on federally financed school construction.** The Superintendent of Public Instruction shall provide, in the construction of school facilities financed in part through federal grants, for the enforcement of labor standards not less beneficial to employes on such projects than those required under sections 1 and 2 of the Act of Congress of August 30, 1935, as amended.

327.640 [Repealed by 1965 c.100 §456]

### (Federally Impacted Areas)

327.655 [Amended by 1961 c.624 §7; repealed by 1965 c.100 §456]

**327.660 Special apportionment to districts educating children residing on tax-exempt state property.** (1) The public education for grades 1 through 12 of children

whose parents or guardians are employes of the state and with whom the child resides in an area which is exempt from taxation as property of the state hereby is declared to be the responsibility of the state. The Superintendent of Public Instruction shall annually pay, from moneys specifically appropriated for the program under this section, to school districts in which such children reside and attend school an amount computed under subsection (2) of this section. In the case of otherwise eligible children who attend school in another district from that in which they reside and whose tuition is paid by the district in which they reside, the district paying the tuition shall be entitled to reimbursement provided under this section.

(2) The Superintendent of Public Instruction, in the manner prescribed under subsection (3) of this section, shall pay to each school district, where children covered under subsection (1) of this section reside and attend school operated by the district, for each such child an amount equal to the difference between the net operating expenditures per pupil as defined in ORS 327.006 plus reasonable costs of transportation per pupil where transportation is furnished by the district and the average receipts of the school district per pupil for operating expenditures from the county, state and federal sources other than the local district tax.

(3) Each school district shall report not later than September 30 following the end of the school year for which the report is made the number of children covered under subsection (1) of this section in schools operated by the district. The report shall contain such other information as the Superintendent of Public Instruction may require. The Superintendent of Public Instruction, as soon as possible after the receipt of such reports, shall prepare, certify and transmit to the Secretary of State a roll of the districts concerned and the amount due each district for the preceding school year. The Secretary of State shall audit the roll and draw his warrants on the State Treasurer, payable out of the moneys specifically appropriated for the program under this section to the several school districts in the amounts certified in the roll.

(4) If the amount appropriated for a fiscal year for the program under this section is insufficient to provide full apportionments as provided in subsections (1) to (3) of this section, the amount available shall be distributed

on a pro rata basis to the claiming districts.  
[1963 c 570 §2, 1965 c.100 §41]

327.990 [Amended by 1957 c.626 §5; repealed by  
1965 c.100 §456]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,  
October 1, 1979.

Thomas G Clifford  
Legislative Counsel

