

# Chapter 327

1993 EDITION

## State Financing of Elementary and Secondary Education

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**STATE SCHOOL 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**327.005** [Repealed by 1957 c.612 §1 (327.006 enacted in lieu of 327.005)]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 327.133:

(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) "Approved transportation costs" means those costs as defined by rule of the State Board of Education and are limited to those costs attributable to transporting or room and board provided in lieu of transporting:

(a) Elementary school students who live at least one mile from school;

(b) Secondary school students who live at least 1.5 miles from school;

(c) Any student required to be transported for health or safety reasons, according to supplemental plans from districts that have been approved by the state board identifying students who are required to be transported for health or safety reasons, including special education;

(d) Preschool children with disabilities requiring transportation for early intervention services provided pursuant to ORS 343.224 and 343.533;

(e) Students who require payment of room and board in lieu of transportation;

(f) A student transported from one school or facility to another school or facility when the student attends both schools or facilities during the day or week; and

(g) Students participating in school-sponsored field trips that are extensions of classroom learning experiences.

(3) "Average daily membership" or "ADM" 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.

(4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the Portland, Oregon, Standard Metropolitan Statistical Area, as compiled by

the United States Department of Labor, Bureau of Labor Statistics.

(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)(a) "Resident pupil" means any pupil:

(A) Whose legal school residence is within the boundaries of a school district reporting the pupil, if the district is legally responsible for the education of the pupil, 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 for placement outside the district; or

(B) Whose legal residence is not within the boundaries of the district reporting the pupil but attends school in the district with the written consent of the affected school district boards. However, such written agreements shall not apply to pupils attending high school under ORS 335.090.

(b) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (3).

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

(9) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as those terms are defined in ORS 310.140. [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; 1981 c.804 §95; 1989 c.215 §2; 1989 c.342 §1; 1991 c.693 §35; 1991 c.780 §2]

**327.008 State School Fund; State School Fund grants.** (1) There is established a State School Fund in the General Fund. The fund shall consist of moneys appropriated by the Legislative Assembly. The State School Fund is continuously appropriated for the purposes of ORS 321.317, 327.006 to 327.075, 327.095, 327.099, 327.101, 327.125, 327.137, 334.380, 336.575, 336.580, 336.635, 342.173, 343.243, 343.533, 343.961 and 461.543.

(2) There shall be apportioned from the State School Fund to each school district a

state school fund grant, consisting of the positive amount equal to a general purpose grant and a transportation grant minus local revenue, computed as provided in ORS 327.013.

(3) All figures used in the determination of the distribution of the State School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(4) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution. [1991 c.780 §3; 1993 c.61 §4]

Note: Section 10, chapter 61, Oregon Laws 1993, provides:

**Sec. 10. Distribution of State School Fund surplus in 1994-1995.** (1) Any amount appropriated for the 1994-1995 school year to the State School Fund that is in excess of \$1.36575 billion, disregarding any amount transferred in the 1994-1995 school year by subsection (2)(a) of this section, shall be distributed as follows:

(a) Seventeen percent to an equity grant that is to be calculated in the same manner as the equity grant for 1993-1994 determined under section 1 (3) of this Act. However, the sum of this grant and the district's 1993-1994 equity grant shall not exceed the amount by which an affected district's 1992-1993 State School Fund grant was reduced by the operation of section 4a, chapter 780, Oregon Laws 1991. Any excess shall be distributed under paragraph (b) of this subsection.

(b) Eighty-three percent to a growth grant determined by multiplying the 1994-1995 district grant determined under section 2 of this Act by the district's percentage increase in district ADMw from 1993-1994 to 1994-1995 and multiplying the result by a funding percentage calculated by the Superintendent of Public Instruction to distribute as nearly as practicable the total amount available for distribution under this subsection. However, the funding percentage shall not exceed 100 percent. Any excess shall be distributed under subsection (3) of this section.

(2)(a) If the total amount of taxes actually imposed on property by common and union high schools within the limits of section 11b, Article XI of the Oregon Constitution, exceeds \$1.1537 billion in the 1993-1994 fiscal year, an amount equal to the excess shall be set aside from the State School Fund appropriation for the 1993-1994 school year and shall be distributed in 1994-1995 under section 2 of this Act or subsection (1)(b) of this section, as determined by paragraph (b) of this subsection.

(b) If the total amount of taxes actually imposed on property by common and union high schools within the limits of section 11b, Article XI of the Oregon Constitution, plus any amount made available for distribution in 1994-1995 by paragraph (a) of this subsection exceeds \$946.5 million in the 1994-1995 fiscal year, an amount equal to the excess shall be distributed under subsection (1)(b) of this section.

(3) Any excess from the distribution described in subsection (1)(b) of this section shall be distributed in the 1994-1995 school year according to the formula set forth in ORS 327.013. For purposes of the distribution required by this subsection, moneys received from the State School Fund other than funds distributed by this subsection shall be considered a local revenue. [1993 c.61 §10]

Note: Section 3, chapter 61, Oregon Laws 1993, provides:

**Sec. 3. Education service district distribution for 1993-1995.** Of the amounts appropriated to the State School Fund for the 1993-1994 and 1994-1995 fiscal years, the Superintendent of Public Instruction shall set aside a sum for distribution to education service districts. The distribution to each education service district shall be 71.33 percent of the amount of revenue lost by the district, as determined by the Department of Revenue under ORS 311.175. [1993 c.61 §3]

Note: Section 13, chapter 693, Oregon Laws 1991, provides:

**Sec. 13. Funding from State School Fund for 21st Century Schools Program.** (1) By 1996, in addition to other funds available for the purposes of the 21st Century Schools Program under ORS 329.535 to 329.605 and the School Improvement and Professional Development program under ORS 329.675 to 329.745, an amount equal to one percent of the State School Fund shall be used for the purposes of ORS 329.535 to 329.605 and 329.675 to 329.745 before any other distribution is made. The amount shall be distributed to eligible school districts at the same time and in the same manner as the State School Fund is distributed. The amount distributed to any eligible school district depends on the amount approved in the school district's application.

(2) Out of the amount available for distribution under this section, an amount equal to five percent thereof shall be distributed to eligible school districts that demonstrate substantial progress in student performance as a result of changes made, taking into consideration such factors as the socioeconomic characteristics of the student population. The decision to distribute funds under this subsection shall be made by the State Board of Education on advice of the 21st Century Schools Advisory Committee. [1991 c.693 §13]

327.010 [Amended by 1957 c.626 §2; 1963 c.570 §1; 1965 c.100 §15; 1979 c.277 §2; repealed by 1991 c.780 §30]

327.012 [Repealed by 1957 c.626 §1]

**327.013 State School Fund distribution computations.** The State School Fund distributions shall be computed as follows:

(1) General Purpose Grant = Funding Percentage × Target Grant × District ADMw.

(2) The funding percentage shall be calculated by the Superintendent of Public Instruction to distribute as nearly as practicable the total sum available for distribution of money.

(3) Target Grant = Statewide Target per ADMw Grant + Teacher Experience Factor.

(4) Statewide Target per ADMw Grant = \$4,500.

(5) Teacher Experience Factor = \$25 × {District average teacher experience - statewide average teacher experience}. "Average teacher experience" means the average, in years, of teaching experience of certified teachers as reported to the Department of Education.

(6) District ADMw = ADMw or ADMw of the prior year, whichever is greater.

(7)(a) Weighted average daily membership or ADMw = average daily membership + an additional amount computed as follows:

(A) 1.0 for each student in average daily membership eligible for special education as a child with disabilities under ORS 343.035, applicable to not to exceed 11 percent of the district's ADM without review and approval of the Department of Education.

(B) 0.5 for each student in average daily membership eligible for and enrolled in an English as a Second Language program under ORS 336.079.

(C) 0.2 for each student in average daily membership enrolled in a union high school district.

(D) 0.1 for each student in average daily membership enrolled in an elementary district operating kindergarten through grade 6 or kindergarten through grade 8.

(E) 0.25 times the sum of the following:

(i) The number of children 5 to 17 years of age in poverty families in the district, as determined by the Department of Education from a report of the federal Department of Education, "1990 Census Poverty Data for LEA's," as adjusted pursuant to rules of the State Board of Education for purposes of the allocation under chapter 1 of the Elementary and Secondary Education Act and as further adjusted by the number of students in average daily membership in June of the year of distribution divided by number of students in average daily membership in the district, or its predecessors, in June 1990;

(ii) The number of children in foster homes in the district as determined by the report of the Department of Human Resources to the federal Department of Education, "Annual Statistical Report on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the Poverty Income Level," or its successor, for October 31 of the year prior to the year of distribution; and

(iii) The number of children in the district in state-recognized facilities for neglected and delinquent children, based on information from the Department of Human Resources for October 31 of the year prior to the year of distribution.

(F) All numbers of children used for the computation in this section must reflect any district consolidations that have occurred since the numbers were compiled.

(b) The total additional weight that shall be assigned to any student in average daily membership in a district, exclusive of students described in paragraph (a)(E) of this subsection shall not exceed 2.0.

(8) Transportation Grant = 70 percent of Approved Transportation Costs.

(9) Local Revenues are the total of the following:

(a) The amount of revenue offset against local property taxes as determined by the Department of Revenue under ORS 311.175 (3)(a)(A);

(b) The amount of property taxes actually received by the district including penalties and interest on taxes;

(c) The amount of revenue received by the district from the Common School Fund under ORS 327.403 to 327.415;

(d) The amount of revenue received by the district from the county school fund from the payment required by ORS 328.005 (1);

(e) The amount of revenue received by the district from the 25 percent of federal forest reserve revenues required to be distributed to schools by ORS 294.060 (1);

(f) The amount of revenue received by the district from state managed forestlands under ORS 530.115 (1)(b) and (c);

(g) The amount of revenue received under ORS 334.400 by a school district in an education service district that provides equalization under ORS 334.400;

(h) Moneys received in lieu of property taxes;

(i) Federal funds received without specific application by the school district and which are not deemed under federal law to be nonsupplantable; and

(j) Any positive amount obtained by subtracting the property taxes actually imposed by the district, as determined by the Department of Revenue under ORS 311.175 (3)(a)(B), from the amount that would be imposed by the district if the district certified a total property tax levy equal to the lesser of:

(A) The maximum amount it can certify within the limits of sections 11 and 11a, Article XI of the Oregon Constitution; or

(B) 106 percent of the total taxes certified by the district in the prior year. [1991 c.780 §4; 1993 c.61 §5; 1993 c.690 §3]

**Note:** Section 2, chapter 61, Oregon Laws 1993, provides:

**Sec. 2. 1994-1995 general purpose grant.** (1) Notwithstanding ORS 327.013, for the 1994-1995 distribution, the sum of a district's general purpose grant and transportation grant shall be equal to the sum of the district's 1993-1994 general purpose grant, equity grant and transportation grant determined by section 1 of this Act.

(2) The total 1994-1995 grant determined under subsection (1) of this section shall be adjusted by a funding percentage calculated by the Superintendent of Public Instruction to distribute as nearly as practicable the total amount available for distribution under this section. [1993 c.61 §2]

**Note:** Sections 1, 2 and 2a, chapter 690, Oregon Laws 1993, provide:

**Sec. 1. Special provision for weighting students in remote small schools.** Notwithstanding ORS 327.075 or the amendments thereto by chapter 61, Oregon Laws

1993, any school that had been approved by the State Board of Education for additional weighting under ORS 327.013 (7)(a)(E) (1991 Edition) for 1992-1993 shall remain eligible for additional weighting of its average daily membership for 1993-1994 and 1994-1995 and the weighting formula to be used shall be the formula stated in ORS 327.013 (7)(a)(E) (1991 Edition). [1993 c.690 §1]

**Sec. 2.** For the 1993-1994 and 1994-1995 school years:

(1) A district providing education programs in kindergarten and grades 1 through 12 and operating one or more schools failing to qualify as a necessary small school due to the distance requirement in ORS 327.075 (1) (1991 Edition) may qualify as a remote small school if the average daily membership in kindergarten and grades 1 through 12 is less than 251 and the State Board of Education determines that the district's continued existence is justified because of sparsity of population. For a district to qualify as sparsely populated, the district's high school must be at least seven miles by the nearest traveled road from another high school.

(2) Prior to distribution of the State School Fund under chapter 61, Oregon Laws 1993, each remote small school qualifying under subsection (1) of this section shall receive an annual grant of \$80,000. This grant amount shall be in addition to any other state grants or distributions from the State School Fund. [1993 c.690 §2]

**Sec. 2a.** For purposes of chapter 61, Oregon Laws 1993, in computing the district's grant, a school that receives additional weighting as a small school under section 1 of this Act shall receive the weighting but a school described in section 2 of this Act shall not receive any additional weighting as a small school. [1993 c.690 §2a]

**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]

**327.017 Special computation of general purpose grant.** (1) In computing the general purpose grant for 1993-1994 and thereafter for any district to which section 4a, chapter 780, Oregon Laws 1991, applied, the Department of Education shall use the total of the general purpose grant received by the district in 1992-1993 plus the amount received by the district as a result of the Emergency Board action as the basis of the computation.

(2) As used in this section, "Emergency Board action" means action taken by the Emergency Board in June 1992 to provide additional funds to districts affected by section 4a, chapter 780, Oregon Laws 1991, because of unanticipated enrollment of dependent children. [1993 c.61 §13]

**Note:** 327.017 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 327 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**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)]

**327.023 Grants for special and compensatory education programs.** In addition to those moneys distributed through

the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

(1) Special schools for children who are deaf or blind as defined in ORS 346.010.

(2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.

(3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disability as described in ORS 343.261.

(4) Private agency programs for education services to children who are placed by the state in long term care or treatment facilities as described in ORS 343.961.

(5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.

(6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(7) Early intervention services for preschool children from birth until age three as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.227.

(9) Education services to children residing at state hospitals and training centers as described in ORS 343.975.

(10) Disadvantaged children program under ORS 343.680.

(11) Early childhood education under ORS 329.215 to 329.235.

(12) Child development specialist under ORS 329.255.

(13) Youth care centers under ORS 420.885.

(14) Staff development and mentoring.

(15) Professional technical education grants.

(16) Special science education programs.

(17) Talented and Gifted children program under ORS 343.391 to 343.413. [1991 c.780 §5; 1993 c.45 §292]

**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]

**327.033 Approved transportation costs.** (1) Approved transportation costs shall be estimated for the year of distribution.

(2) Approved transportation costs shall include depreciation of original cost to the district of district-owned buses, not in excess of 10 percent per year.

(3) Districts are required to account separately for those funds received from the State School Fund attributable to the costs included under subsection (2) of this section, and expenditure of those funds shall be limited to the acquisition of new buses or transportation equipment. [1991 c.780 §7a]

**327.035** [Amended by 1953 c.108 §3; 1957 c.612 §10; 1959 c.388 §5; 1963 c.142 §2; 1965 c.100 §17; 1966 c.323 §1; 1971 c.107 §1; repealed by 1991 c.780 §30]

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

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

**327.042** [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; repealed by 1991 c.780 §30]

**327.043 When district required to provide transportation; waiver.** (1) A school district is required to provide transportation for elementary students who reside more than one mile from school and for secondary school students who reside more than 1.5 miles from school. A district is also required to provide transportation for any student identified in a supplemental plan approved by the State Board of Education.

(2) Notwithstanding subsection (1) of this section, the State Board of Education may waive the requirement to provide transportation for secondary school students who reside more than 1.5 miles from school. A district must present to the board a plan providing or identifying suitable and sufficient alternate modes of transporting secondary school students. [1991 c.780 §7]

**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]

**327.049** [1985 c.555 §9; repealed by 1991 c.780 §30]

**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** [1965 c.100 §18a; 1973 c.750 §5; 1977 c.840 §3; 1981 c.899 §1; 1985 c.555 §10; 1989 c.216 §2; repealed by 1991 c.780 §30]

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

**327.056** [1977 c.840 §4; repealed by 1989 c.216 §1]

**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** [Formerly 327.018; 1969 c.625 §3; 1971 c.21 §2; 1973 c.750 §6; 1977 c.840 §5; 1981 c.899 §2; repealed by 1991 c.780 §30]

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

**327.061 Computation of number of students in average daily membership.** (1) Numbers of students in average daily membership used in the distribution formula as specified in ORS 327.013 (7), shall be projections of the average daily membership in the district for the school year ending on June 30 of the distribution year. The Department of Education shall verify all projections used for purposes of the distribution formula.

(2) The department shall use information from the Department of Revenue under ORS 311.175 as the basis for determining projected district property taxes. The department shall request relevant information from the school districts to enable the department to estimate the amount each school district shall receive from the State School Fund. The department shall provide this estimate no later than the first Monday in March of each year for the distribution for the following fiscal year.

(3) A school district may appeal to the department any projection verified by the department under subsection (1) of this section. The department shall rule on the appeal in a timely manner and if necessary issue a revised estimate of the amount each school district shall receive from the State School Fund no later than the last Friday in March.

(4) Notwithstanding subsection (3) of this section, no school district may appeal any projection verified under subsection (1) of this section if the district failed to provide information requested by the department under subsection (2) of this section. [1991 c.780 §11; 1993 c.18 §88]

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

**327.063** [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; 1981 c.804 §96; repealed by 1991 c.780 §30]

**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** [1977 c.840 §7a; repealed by 1983 c.610 §8]

**327.072** [Amended by 1957 c.612 §12; 1963 c.570 §4; 1965 c.100 §21; 1969 c.625 §5; 1973 c.750 §8; repealed by 1991 c.780 §30]

**327.074** [Amended by 1965 c.100 §26; renumbered 327.097]

**327.075 Remote small school determination; effect; appeal.** (1) A school may qualify as a remote small school if the average daily membership in grades one through eight or in grades 9 through 12 is below 251 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 another 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.

(2) 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 State School Fund moneys, the school shall not be considered eligible for the additional weighting under ORS 327.013 (7)(a)(E) (1991 Edition). 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.

(3) Upon receipt of the appeal, the State Board of Education shall review the reasons set forth in the 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. [Formerly 327.028; amended by 1969 c.625 §6; 1977 c.840 §7; 1979 c.277 §7; 1991 c.780 §14; 1993 c.61 §6]

Note: 327.075 is repealed July 1, 1995. See section 6, chapter 690, Oregon Laws 1993.

Note: Section 12, chapter 61, Oregon Laws 1993, provides:

**Sec. 12. Effect of reopening remote small school.** The reopening of an existing school structure for use as a school in an adjoining school district does not prevent an elementary school from qualifying as a remote small school if the elementary school otherwise meets the requirements set forth in ORS 327.075. [1993 c.61 §12]

**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 State School 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 State School 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 State School Fund. [1973 c.707 §6]

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

**327.090** [Amended by 1959 c.388 §10; 1963 c.570 §6; 1965 c.100 §27; repealed by 1991 c.780 §30]

**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** [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; 1989 c.456 §1; repealed by 1991 c.780 §30]

**327.095 Time of payment of apportionments.** (1) Except as provided in subsection (2) of this section, funds due school districts under ORS 327.008 and 327.013 shall be paid approximately 16-2/3 percent on August 15, approximately eight and one-third percent on the 15th day of each of the months of October, November, December, January, February, March and April and the balance on May 15. An equitable apportionment based on the most recent data available shall be made on the installment dates prior to May 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 through January 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. [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; 1981 c.678 §9; 1983 c.610 §7; 1991 c.780 §16]

**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]

**327.099 Adjustment of distribution within fiscal year.** (1) The Department of Education shall adjust the distribution to a school district to reflect the difference between the estimated level of local revenues to the district under ORS 327.013 (9) and the projected level of those same local revenues used to calculate the State School Fund apportionment to the district. The adjustment shall be incorporated in the May 15 apportionment to the district in the distribution year.

(2) The department shall adjust the May 15 apportionment to a school district in the distribution year to reflect an ADMw of the district equal to the higher of the ADMw of the prior year or the adjusted ADMw for the December quarter. Adjusted ADMw for the December quarter shall equal:

(a) ADMw as determined by the department from information provided in the December quarterly report for the current distribution year filed with the department under ORS 327.133;

(b) Multiplied by the lesser of 1.0 or the average of the ratios for the preceding two years of the ADM for the year ending June 30 to the ADM for the quarter ending December 31 for the same school year as filed under ORS 327.133.

(3) The sum equal to the sum of all negative adjustments made to the May 15 apportionment under subsection (1) of this section is appropriated to the department for purposes of funding positive adjustments required under subsection (1) of this section and adjustments required under subsection (2) of this section.

(4) The department shall also set aside an amount of the funds appropriated to the

State School Fund for the fiscal year to fund any positive adjustments required under subsection (1) of this section and adjustments required under subsection (2) of this section in excess of the amount available under subsection (3) of this section. The amount set aside shall be as determined by law.

(5) If the amounts available under subsections (3) and (4) of this section are either not sufficient to fund the positive adjustments or exceed the positive adjustments to districts required under subsections (1) and (2) of this section and the adjustments required under subsection (2) of this section, the Superintendent of Public Instruction shall recalculate the funding percentage in ORS 327.013 (2) to distribute as nearly as practicable the total sum available for distribution. [1991 c.780 §12; 1993 c.61 §7]

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

**327.101 Adjustment of distribution between fiscal years.** (1) For fiscal years beginning on or after July 1, 1993, the distribution to a school district under ORS 327.008 and 327.013 shall be adjusted to fully reflect the difference between the apportionment due to the district for the prior fiscal year under ORS 327.008 and 327.013, and the amounts actually distributed to the district in the prior fiscal year under ORS 327.008, 327.013 and 327.099. The adjustment shall be made to the May 15 apportionment to the district.

(2) No consideration shall be made in the adjustment made under subsection (1) of this section for any penalties, forfeitures or additional receipts of State School Fund moneys, except when expressly directed by law.

(3) An amount of funds equal to the sum of all negative adjustments made to the May 15 apportionment under subsection (1) of this section shall be appropriated to the Department of Education for purposes of funding positive adjustments required under subsection (1) of this section in the same fiscal year.

(4) If the amounts available under subsection (3) of this section are either not sufficient or exceed the adjustments to districts required under subsection (1) of this section, the Superintendent of Public Instruction shall recalculate the funding percentage in ORS 327.013 (2) to distribute as nearly as practicable the total sum available for distribution. [1991 c.780 §13; 1993 c.61 §8]

**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, pursuant to standards and rules of the State Board of Education.

(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 Superintendent of Public Instruction may withhold portions of State School Fund moneys otherwise allocated to the district for operating expenses until such deficiencies are corrected unless the withholding would create an undue hardship, as determined pursuant to rules of the State Board of Education.

(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. A team of Department of Education staff, with Distinguished Oregon Educators, when feasible, operating under the direction of the Department of Education, shall visit the school district and offer technical assistance, as needed, in the preparation and implementation of the plan. When an acceptable plan for meeting standardization requirements has been submitted, the Superintendent of Public Instruction may allow an extension of time, not to exceed 12 months, if the superintendent determines that such deficiencies cannot be corrected or removed before the beginning of the next school year. 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 for meeting standardization requirements within the time specified shall receive no further State School 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 comply. [Formerly 327.032; 1989 c.491 §5; 1991 c.693 §32]

327.105 [Repealed by 1963 c.570 §33]

**327.109 Procedure if school district alleged to be involved in religious activity; complaint, investigation, finding; effect.**

(1) Upon receipt from a citizen of Oregon of a complaint which on its face is colorable that a school district is a district which sponsors, financially supports or is actively involved with religious activity, the Superintendent of Public Instruction or the superintendent's designated representative shall undertake promptly a preliminary investigation of the facts alleged in the complaint.

(2) If, after the preliminary investigation, the superintendent finds that there is a substantial basis to believe that the school district is a district which sponsors, financially

supports or is actively involved with religious activity, the superintendent shall:

(a) Notify the complainant and the school district;

(b) Withhold immediately all funds due the district under ORS 327.095; and

(c) Schedule a contested case hearing to be conducted in accordance with ORS 183.413 to 183.464.

(3) If, after the preliminary investigation, the superintendent finds that there is no substantial basis to believe that the school district is a district which sponsors, financially supports or is actively involved with religious activity, the superintendent shall notify the complainant and the district of that finding and shall not withhold funds due the district under ORS 327.095 or schedule a hearing.

(4) During the preliminary investigation, the school district shall cooperate to a reasonable degree with the superintendent and provide any and all evidence which the superintendent considers necessary for the investigation. If the school district fails or refuses to cooperate to a reasonable degree with the superintendent during the investigation, the superintendent shall presume that there is a substantial basis to believe that the district is a district which sponsors, financially supports or is actively involved with religious activity and shall proceed as provided in subsection (2) of this section.

(5) If the superintendent makes a finding under subsection (2) or (4) of this section, the school district shall receive no funds under ORS 327.095 from the date of the superintendent's finding until the superintendent finds that the district is no longer sponsoring, financially supporting or actively involved with religious activity.

(6) The funds withheld under this section shall be held in an escrow account and shall be removed from that account only as follows:

(a) If the superintendent determines, after a contested case hearing, or a court on appeal rules, that the school district never sponsored, financially supported or was actively involved with religious activity, the entire amount, including interest thereon, in the escrow account shall be released to the district.

(b) If the superintendent determines, after a contested case hearing, or a court on appeal rules, that the school district sponsored, financially supported or was actively involved with religious activity in the past but has ceased to do so, that portion of the amount, including interest thereon, in the escrow account which accrued to the district

after the district ceased the proscribed conduct shall be paid to the district. Any amount, including interest thereon, permanently withheld from the district shall revert to the State School Fund or to the General Fund, if the biennium has ended.

(c) If the school district does not cease the proscribed conduct by the beginning of the next school year, the superintendent shall notify the State Treasurer who shall cause the amount in the escrow account, including interest thereon, to revert to the State School Fund or to the General Fund, if the biennium has ended.

(7) If the superintendent schedules a contested case hearing, as provided in subsection (2) of this section, the superintendent may conduct such further investigation of the facts relevant to the complaint as the superintendent considers necessary. In conducting the investigation, the superintendent shall have the power of subpoena to compel production of documents and attendance of witnesses at depositions and may do all things necessary to secure a full and thorough investigation.

(8) If a person or school district fails to comply with any subpoena issued under subsection (7) of this section, a judge of the circuit court of any county, on application of the superintendent, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from circuit court. [1985 c.584 §2]

**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 to 327.133. The State Board of Education shall adopt 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; 1989 c.491 §6; 1991 c.780 §17]

**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 to 327.133, 328.542, 334.270, 530.115 and this section, the district shall submit the necessary information on forms provided by the department 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 State School Fund until such reports are filed. [1965 c.199 §1; 1977 c.840 §9; 1989 c.491 §7; 1991 c.780 §18]

**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]

**327.147 Increased allocation when union high school district becomes common school district.** (1) When a union high school district becomes a common school district, as described in ORS 335.505, the common school district shall be entitled to an increased allocation, based on the total average daily membership, as defined in ORS 327.006, of the new common school district as follows:

(a) An additional 15 percent in the first year of operation as a common school district;

(b) An additional 10 percent in the second year of operation as a common school district; and

(c) An additional five percent in the third year of operation as a common school district.

(2) The amounts authorized by this section shall be computed based on the computation of the affected district's allocation of

moneys from the State School Fund but shall be payable from funds specifically appropriated for the purposes of this section. [1989 c.969 §1]

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

**327.152 Increased allocation when certain merger occurs.** (1) If a school district responsible for education in kindergarten through grade 12, that does not operate a high school, merges with a district providing education in kindergarten through grade 12, the district providing the education shall be entitled to an increased allocation, based on the average daily membership of the former district, as follows:

(a) An additional 15 percent in the first year of operation of the merged district;

(b) An additional 10 percent in the second year of operation of the merged district; and

(c) An additional five percent in the third year of operation of the merged district.

(2) The amounts authorized by this section shall be computed based on the computation of the affected district's allocation of moneys from the State School Fund but shall be payable from funds specifically appropriated for the purposes of this section. [1989 c.969 §2]

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

**327.157 Minimum apportionment to school districts affected or not affected by ORS 327.147 and 327.152.** (1) Subject to the limits of funds appropriated for the implementation of ORS 327.147 and 327.152, a school district shall not be apportioned less for its average daily membership for any year subsequent to the 1989-1990 fiscal year than was estimated for the 1989-1990 fiscal year.

(2) If the funds appropriated for the implementation of ORS 327.147 and 327.152 are insufficient to meet the obligations incurred under ORS 327.147 and 327.152, each district eligible to receive funds under ORS 327.147 or 327.152 shall receive its pro rata share of the funds available for the implementation of ORS 327.147 and 327.152. [1989 c.969 §4]

**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]

**327.202** [1989 c.971 §1; repealed by 1991 c.459 §448]

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

**327.207** [1989 c.971 §2; repealed by 1991 c.459 §448]

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

**327.212** [1989 c.971 §3; repealed by 1991 c.459 §448]

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

**327.217** [1989 c.971 §4; repealed by 1991 c.459 §448]

**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]

### GRANTS FOR CONSTRUCTION AND MAINTENANCE OF PUBLIC SCHOOL FACILITIES

**327.300 Definitions for ORS 327.300 to 327.320.** As used in ORS 327.300 to 327.320:

(1) "Construction" includes land acquisition, planning, design, construction, remodeling, altering, furnishing and equipping public school facilities.

(2) "Maintenance" includes repairing, replacement and other capital maintenance but does not include cleaning.

(3) "Public school facility" includes facilities used for classroom instruction, multi-purpose activities, libraries or any other use associated with public education in preschool through grade 12, and includes facilities that may be used by more than one school district.

(4) "School district" means a common or union high school district, an education service district or any combination thereof. [1993 c.765 §120]

**327.310 Legislative findings.** The Legislative Assembly finds that:

(1) The construction and maintenance of public school facilities accomplish the purpose of creating jobs and furthering economic development in Oregon by, among other advantages:

(a) Furnishing an important element of the public school system that provides the basic framework for continuing and expanding economic activity in the state;

(b) Alleviating the congestion and crowding associated with, and reducing the burdens of expansion and maintenance of, existing public school facilities, as well as reducing energy consumption; and

(c) Creating employment opportunities through the funding of projects for the development and construction of public school facilities.

(2) Based on the legislative findings described in this section, the use of a portion of the net proceeds from the operation of the state lottery funds under section 4 (3), Article XV of the Oregon Constitution and ORS 461.510 creates jobs and furthers economic development. [1993 c.765 §121]

**327.320 School Facility Improvement Fund.** There is hereby created the School Facility Improvement Fund, separate and distinct from the General Fund. The fund shall be an investment fund for purposes of ORS 293.701 to 293.820. Moneys in the fund are appropriated continuously for the purpose of carrying out ORS 327.330. Interest earned by the fund shall be credited to the fund. [1993 c.765 §122]

**327.330 Grants to school districts for construction and maintenance of public school facilities.** (1) Subject to the rules of the State Board of Education, the Superintendent of Public Instruction shall make grants to school districts that apply therefor for the purpose of construction and maintenance of public school facilities.

(2) Grants shall not exceed \$500,000 in any biennium to any school district. In addition, a combination of districts may submit a joint grant application in an amount not to exceed \$500,000. However, a district or combination thereof may apply in subsequent bienniums for additional grants for the same facility. Grants must be matched at least one local dollar for four state dollars by the district or combination thereof.

(3) The state board by rule shall establish criteria for grant approval. Such criteria shall include but not be limited to:

(a) The age of public school facilities, the degree of overcrowding and the absence of facilities that are considered necessary to accomplish the educational goals of the district and this state; and

(b) Maintenance and reconstruction needs related to the deterioration of existing public school facilities, which deterioration has the potential of affecting the health and safety of students. [1993 c.765 §123]

### 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 any common school district which includes an entire county. [1965 c.100 §30; 1991 c.167 §2]

**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. Except as otherwise provided by law, the income from the Common School Fund shall be applied exclusively 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 and 98.992, 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; 1987 c.760 §4]

**327.410 Apportionment of Distributable Income Account of Common School Fund to counties.** The Division of State Lands shall apportion the balance of the Distributable Income Account of the Common School Fund established under ORS 273.105, after deductions authorized by law, among the several counties semiannually commencing on January 1, 1983, or more frequently if the State Land Board so orders, 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; 1982 s.s.2 c.1 §5]

**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 ORS 348.050 (3). 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 ORS 348.050 (4), 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 293.820. 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 ORS 348.050 (3), 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; 1983 c.740 §99]

**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 installments, as may mutually be agreed upon between the borrower and the Division of State Lands, and the installments 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 installment 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 installments, 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 installments 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 organized 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, the sheriff 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, the 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 the student 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 the student 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 con-

sists 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 professional technical 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; and

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

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

(3) 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; 1993 c.45 §302]

**327.490 Projects contracted to districts and institutions of higher learning.** The State Board of Education may contract with school districts, community college 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 districts or institutions based on the estimated cost of any service to be provided. Any payment to a district shall not be subject to the provisions of ORS 294.305 to 294.520, 294.555 and 294.565. [1961 c.588 §5; 1989 c.491 §8]

**327.495 Appropriation of funds received for certain purposes.** All moneys received by the State Board of Education for distribution to school districts, community college 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; 1989 c.491 §9]

### 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 Department of Education 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. The department 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. [Amended by 1989 c.491 §10]

327.523 [1975 c.87 §1; repealed 1981 c.784 §38]

**327.525 School Lunch Revolving Account.** The School Lunch Revolving Account, separate and distinct from the General Fund, is continuously appropriated for the purposes of ORS 327.520. All money received under the provisions of ORS 327.520 shall be paid by the Department of Education to the State Treasurer for credit to the School Lunch Revolving Account. Interest earned by the account shall be credited to the account. [Amended by 1965 c.100 §40; 1975 c.87 §2; 1981 c.784 §21; 1989 c.491 §11; 1989 c.966 §26]

327.530 [Repealed by 1965 c.100 §456]

**327.535 School breakfast program; waiver; district election based on federal funding.** (1) Subject to subsections (2) and (3) of this section, any school district that provides lunch at any school site shall make breakfasts accessible if 25 percent or more of the students at the site are eligible for free or reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines or the school site qualifies for assistance under Chapter I of Title I of the federal Elementary and Secondary Act of 1965.

(2) The school district may apply to the State Board of Education for a waiver for all or for particular grade levels if it is financially unable to implement a breakfast program. The state board may grant a waiver to

the school district for a period not to exceed two years, after which the school district must reestablish its claim of financial hardship if the waiver is to be extended.

(3) If the per meal federal reimbursement for the free and reduced price breakfast program falls below the 1991 reimbursement levels, a school district may elect to discontinue the program until federal funding is restored to those levels. No waiver is required for such election. [1991 c.500 §1]

#### (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.** The Oregon Department of Administrative Services shall cause a review to be made of the accounts and financial affairs of the State Board of Education, the Superintendent of Public Instruction and the Department of Education 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. [Amended by 1975 c.614 §10; 1989 c.491 §12]

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 employees 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]

#### (Financing of State and Federal Requirements)

**327.645 Financing of programs mandated by state and federal programs.** The Legislative Assembly recognizes that:

(1) Various programs adopted by the Legislative Assembly and by various state and federal agencies have fiscal and revenue impact on school districts.

(2) To the greatest extent possible, state government should pay an appropriate share of expenses incurred by the districts as the result of mandates from the Legislative Assembly and state agencies. [1989 c.970 §1]

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

**327.660** [1963 c.570 §2; 1965 c.100 §41; 1983 c.740 §100; repealed by 1985 c.388 §3]

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

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