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Report on Education Bonds (State Ballot Measure No. 7)

City Club of Portland (Portland, Or.)

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REPORT
ON
EDUCATION BONDS
(State Ballot Measure No. 7)

Purpose: Constitutional Amendment Authorizing Education Bonds. Authorizes bonds up to 1% of true cash value of taxable property in state to provide funds to purchase bonds of common or union high school districts or area education districts issued by the district for purposes authorized by law. Authorizes statewide property tax to provide for payment of bonds if Legislature does not provide other revenues. Supercedes conflicting constitutional requirements.

To The Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was appointed to study and make recommendation upon a proposed amendment to the Oregon Constitution for the purpose set forth above. This measure, House Joint Resolution 52, was referred to the voters by the 1969 Legislature to be voted on at the 1970 General Election, November 3, 1970. If adopted, it will become a new Article XI-K. The measure is set forth in full as Appendix A to this report.

II. SCOPE OF COMMITTEE RESEARCH

A. Interviews

The following persons were interviewed by the Committee as a whole, or by individual members:

George J. Annala, Manager, Oregon Tax Research

William Bade, Special Assistant to the Superintendent,
School District No. 1 (Portland)

Gordon Barker, Investments Manager, office of the Treasurer, State of Oregon

Albert R. Bullier, Jr., Chairman of the School Board,
District No. 48 (Beaverton)

Richard Campbell, Assistant Vice-President, First National Bank of Oregon

Jesse V. Fasold, Deputy Superintendent, Oregon State Board of Education

Representative Carrol B. Howe (R-Klamath), Chairman,
House Education Committee, Oregon Legislative Assembly

James Matthias, Business Task Force on Education, Inc.

Don Miller, Executive Committee, Business Task Force on Education, Inc.

Elmo Mills, Assistant Director, Department of Veterans' Affairs,
State of Oregon

Howard A. Rankin, Attorney

Robert L. Ridgley, Attorney; member of Board,
School District No. 1 (Portland)

Thomas Rigby, Executive Secretary, Oregon School Boards Association

Henry G. Russell, member of Board, School District No. 48 (Beaverton)

Peter Schnell, member of the Board of Directors, Business Task Force
on Education, Inc.

Harry A. Thompson, Superintendent-Clerk, Union School
District No. U2-20 Joint (Gresham)

B. Reference Materials

In addition, the Committee reviewed the following:

"Public School Survey and Recommendations," Business Task Force on Education, March, 1969

"Interest Hikes Cost Millions \$," *Monthly Tax Features*, Tax Foundation, Inc., June, 1969, Vol. 13, No. 6

Material prepared for *Oregon Voters' Pamphlet* by Mrs. Ann Kemp, Mrs. David McCarthy and Mr. D. R. Miller

Chapter 654, *Oregon Laws*, 1969

Moody's Bond Ratings

Letter dated September 17, 1970, from Mr. Jesse V. Fasold, Deputy Superintendent, Oregon Board of Education, answering certain questions posed by the Committee

The following previous City Club reports contained in volumes of *Portland City Club Bulletin*, as indicated:

"Constitutional Amendment Lending State Tax Credit for Higher Education Buildings," Vol. 31, No. 19, September 15, 1950

"Authorizing Bonds for Education Building Program," Vol. 44, No. 49; May 8, 1964

"Higher Education and Community College Bonds," Vol. 48, No. 48; April 26, 1968

"Capital Construction Bonds for State Government," Vol. 50, No. 49; May 8, 1970

"Pollution Control Bonds," Vol. 50, No. 50; May 15, 1970

III. BACKGROUND

This proposed Constitutional Amendment authorizes the State to issue and sell general obligation bonds in amounts not to exceed one percent of the true cash value of all taxable property in the State to provide funds for the purpose of purchasing bonds issued by local school districts. This would provide a ready market for local school district bonds and would enable local school districts to take advantage of the State's high credit rating and any resulting saving in interest costs.

At the time of the adoption of House Joint Resolution 52 (HJR 52), the Legislature also passed Chapter 654, Oregon Laws 1969, (see Exhibit B to this report), which would take effect only if Article XI-K is adopted by the voters. This Act limits the principal amount of the bonds outstanding at any one time to \$160 million par value. It also delegates the responsibility for selling and retiring the bonds to the Director of the Department of Veterans' Affairs. The Director is to set up a sinking fund for retirement of the bonds, which fund will consist of monies received from the school districts as a result of their levying ad valorem taxes to retire their own bonds. In the event of default by the school districts, the amendment authorizes the bonds to be retired from such funds as the Legislature may provide, or, if none is provided, the State may levy a state-wide property tax. The State Board of Education will administer the funds and will adopt rules and standards for purchasing the bonds.

This measure is a direct outgrowth of a report issued in March 1969 by the Business Task Force on Education. On October 4, 1968, Governor Tom McCall issued Executive Order No. 18-12 creating the Task Force with the endorsement of Dr. Dale Parnell, Superintendent of Public Instruction. The Task Force, composed of executives and experts from business and industry, was directed to make such studies as it deemed necessary for the improvement of the business administration of Oregon's public schools. The result was a lengthy report making numerous recommendations, most of which have yet to be implemented.

HJR 52 and its accompanying legislation were adopted on the last day of the 1969 Legislative Session after brief hearings in which the only testimony came from members of the Governor's Business Task Force on Education. The Committee believes it to be the only recommendation in the report which was acted upon by the Legislature.

Bonding has been used by the State as a means of financing public education since 1950 when the voters adopted Article XI-F(1) of the State Constitution, authorizing the State to issue bonds for certain higher education construction projects. This authority was broadened in 1964 and again in 1968 (Article XI-G) to include other types of construction projects for higher education institutions and community colleges. However, the measure now proposed would be the first bonding measure applicable to public school districts.

IV. ARGUMENTS FOR THE MEASURE

Arguments advanced to your Committee in favor of State Measure No. 7 were:

1. School districts with bond ratings less favorable than that of the State would achieve cost savings in issuing bonds by availing themselves of the State's lower rate of interest.
2. School districts with weak financial status would have an assured market for their bond issues, and in some cases would have a source of funds not heretofore available.
3. By having a source of long-range financing, small school districts would be able to do a better job of long-range planning.
4. Because the bonds are self-liquidating, this measure would provide a means whereby the State would be able to provide additional support to local school districts at no additional financing cost to the taxpayer.
5. The reduction in the cost of bonded indebtedness through lower interest rates would result in lessening somewhat the burden on the property taxpayer in the local school district, thus providing an indirect form of property tax relief.
6. Local school districts would be able to receive support from the State with no loss of local control.
7. This measure would provide another potential source of funds for the State's burgeoning community colleges.

V. ARGUMENTS AGAINST THE MEASURE

The Committee found no organized opposition to the measure. However, the following arguments were presented to your Committee in opposition to Measure No. 7:

1. This measure would help only the financially weaker school districts and would be of little or no benefit to larger districts with favorable bond ratings.
2. The recent increases in the State's bonding authority for various purposes might jeopardize the State's high bond rating, if used to fullest capacity.
3. The State's credit rating could be jeopardized by loading its portfolio with high-risk bonds issued by financially weaker school districts.
4. The availability of credit to small school districts could remove an incentive for consolidation of school districts, which consolidation, if achieved, might result in a more efficient education system.
5. While this is not a taxing measure, if a school district defaults in retiring its bonds, the State must appropriate the money to retire the state bonds which in turn could result in higher taxes in some form.
6. The availability of a ready market may encourage small school districts to issue bonds unnecessarily, thereby ultimately increasing the burden on the property taxpayer.
7. This program is cumbersome from an administrative standpoint because of the involvement of several state agencies in each bond issue.
8. Bonding in any form is bad, and the State should have a "pay-as-you-go" policy.

VI. DISCUSSION

As of March, 1969, there were 365 school districts in the State of Oregon with student populations ranging from as few as ten students to as many as 75,000 and annual budgets ranging from less than \$10,000 to several millions of dollars. With such a wide variation in the size, type and complexity of school districts, it is readily apparent that the problems involved in providing these school districts with the necessary financing are equally varied and complex.

At present, school districts receive funds from three principal sources. By far the most significant source (about 70 percent at present) is the local ad valorem property tax. Federal funds now make up about 7 percent, with the balance coming from the Basic School Support Fund provided by the Oregon Legislative Assembly. The latter source is becoming increasingly smaller in relation to the total, as illustrated by the graph in Exhibit C to this report. In the face of expenditures which are escalating at an ever-increasing rate, the result has been a mounting property tax crisis, evidenced by the frequent defeat of school budgets at the polls. The situation is severely aggravated by the 6 percent limitation on property tax in the Oregon Constitution⁽¹⁾ and the inadequate tax bases of most school districts.

This proposed amendment is a modest attempt to reduce the cost to local school districts of providing long-term financing, by permitting them to utilize the high credit rating of the State. An additional effect would be the availability of a ready market for bonds issued by financially weaker school districts.

It appears that not all school districts would be in a position to benefit by the passage of this measure. For example, Portland's School District No. 1 has never issued bonds and its only present bonded indebtedness is approximately \$28,000 resulting from its merger with the Sylvan School District. Your Committee believes that should School District No. 1 decide to sell bonds, it would have no difficulty in marketing them at a rate as favorable as could be obtained by the State (rated Moody's Aa). Other school districts such as Marion County's District 24J, now have an "Aa" rating (a listing of the current Moody's bond ratings of Oregon school districts is on file at the City Club offices).

The real beneficiaries of this measure would be the smaller or financially weaker school districts. Some have no bond rating at all and must try to place their bonds, if at all, privately with local buyers. Other school districts, some of which are among the larger ones, have bond ratings; however, they either have difficulty in selling their bonds at all, or are able to do so only at rates of interest ranging from 0.5 percent to 1.5 percent higher than can be obtained by the State of Oregon.

It is readily apparent that there would be significant cost savings to many local school districts by utilizing the State's credit rating rather than their own.

Although the true cash value of the State's taxable property was assessed at approximately \$18.8 billion as of January 1, 1970 (1 percent of which is \$188 million), the Legislature has placed a limit of \$160 million on the amount of bonds that could be issued. Assuming an average saving in interest rates of 1 percent, and assuming the entire authorized bonding capacity were utilized, there would be an average annual saving of \$1,600,000 which would be passed on directly to the local school districts.⁽²⁾

It should be pointed out, however, that such a saving would not result immediately, and, in fact, the current authorized bond limit would probably not be reached for five years or more.

Your Committee is advised that once proper rules and standards are established by the Department of Education the State would have no power to refuse to purchase any issue which meets such standards, and thus there would be a ready market for all such local bond issues. It is possible that the State Treasurer, in conjunction with the Department of Education's rules and standards, could shut off further purchases of school district bonds for sound fiscal reasons, such as

⁽¹⁾Article XI, Section 11, (2), Oregon Constitution.

⁽²⁾However, see Exhibit B, Section 6(2) and Section 7(1) wherein a service charge not to exceed .0025 of the par value of the bonds is permitted.

jeopardy of the State's credit rating, although representatives of the State Treasurer's office expressed doubt as to whether such discretion exists.

The statement in the ballot title that the amendment "Authorizes state-wide property tax to provide for payment of bonds if Legislature does not provide other revenues" may cause some voters to misconstrue the amendment to be a tax measure. **It is not a tax measure.** On the contrary, the State's bonds would be self-liquidating; i.e., they will be liquidated from school district tax revenues levied to retire the school district bonds purchased by the State.

The authorization to levy a state-wide property tax if the Legislature does not provide other revenues is common to all general obligation bonds of the State. Only by pledging the property of the State as security for the bonds in that manner is the State able to obtain the favorable rates of interest available to it. The authority to levy a state-wide property tax has not been used since 1941, and the Committee sees no likelihood of it happening in the foreseeable future. Furthermore, only in the event of default would the State be called upon to use its own funds to retire its bonds. The Committee is informed that default by a school district has occurred only once in the State's history. Political reality dictates that should this happen, the money would come from the General Fund of the State and not from a state-wide property tax assessment.

Although it has been suggested that the adoption of this measure will result in some saving in the administrative costs of issuing bonds by reason of selling them to the State, the Committee is not persuaded that this would actually occur, because the State and the school districts have no authority to deal privately, and a public sale would still be necessary even though in many cases the State will inevitably be the low bidder.

The Committee notes that by including area education districts within the bonding authority the community colleges would potentially have access to funds through this program as well as through the authority provided by Article XI-G.

The Committee believes that only one of the arguments which have been advanced against the measure has sufficient merit to warrant discussion. Several persons interviewed who have had extensive experience in the marketing of school bonds and state bonds were apprehensive that a dramatic increase in the amount of the State's outstanding bonded indebtedness might jeopardize the State's excellent bond rating.

There has indeed been a great increase in the amount of the State's bonded indebtedness during the past twenty years. As of September 18, 1970, the total was \$745,272,000, made up as follows:

State Highway (Const. Art. XI, Section 7)	\$ 49,100,000
Veterans' Welfare (Art. XI-A) (Farm and home loans)	554,000,000
Reforestation (Art. XI-E)	9,200,000
Higher Education Building Projects (Art. XI-F(1)) (Revenue bonds)	66,337,000
World War II Veterans Compensation (Art. XI-F(2))	9,000,000
Higher Education and Community College Projects (Art. II-G) (Bonds matched by general fund appropriations)	57,635,000
TOTAL	<u>\$745,272,000</u>

An additional \$15,000,000 in state highway bonds will be issued in early 1971, and \$50,000,000 in pollution control bonds were authorized by the voters at the primary election in May, 1970. (See Article XI-H of the Constitution, and Chapter 503, Oregon Laws, 1969.)

In November, the voters will vote on a proposed amendment to Article XI-A of the Constitution which would increase the amount of bonds authorized for veterans' loans by another \$188 million (State Measure No. 5).

The Committee has not been able to determine the point at which the State's debt would become so high as to cause its bond rating to be lowered, thereby raising interest rates. It is the general feeling of those interviewed, however, that there is no immediate danger in this regard, but that the time has come for viewing new bond authorizations with some caution. The Committee notes that two recent City Club reports dealing with bonding authority have considered this question.⁽³⁾ The Committee is in agreement with the conclusion expressed earlier this year by the Committee on Pollution Control Bonds, as follows:

" . . . The effect of a particular bond issue on the total credit of the State is difficult to determine. The arguments advanced against further bonding are valid and will require constant vigilance by the State's fiscal officers to protect Oregon's presently high credit rating." Volume 50, No. 50, at page 209.

This vigilance may require the assigning of priorities by the Legislature and those state officials responsible as to which are most deserving of the State's limited availability of bonded credit, as for example, between pollution control and school district bonds.

Nonetheless, the Committee believes that the latter argument is outweighed by the advantages in making the State's credit available to school districts to the extent consistent with sound fiscal management.

VII. CONCLUSION

It is the opinion of the Committee that the adoption of this amendment will permit local school districts issuing bonds to utilize the State's favorable credit rating resulting in a significant saving to certain of the State's smaller school districts. In addition, it will provide a ready market for some bonds which have been heretofore difficult to sell. The Committee believes that these advantages greatly outweigh the arguments advanced against the measure.

VIII. RECOMMENDATION

Your Committee therefore recommends that the City Club go on record as favoring passage of this measure, and urges a vote of "Yes" on State Ballot Measure No. 7.

Respectfully submitted,

L. James Bergmann
Robert L. Dervedde
William S. Dirker, Jr.
Howard M. Feuerstein
Edward F. Finn
Roland A. Haertl
James L. McCreight, *and*
Stephen B. Herrell, *Chairman*

Approved by the Research Board October 1, 1970, for transmittal to the Board of Governors.

Received by the Board of Governors October 7, 1970, and ordered published and presented to the membership for consideration and action.

⁽³⁾Portland City Club Bulletin, Report on "Capital Construction Bonds for State Government," Vol. 50, No. 49, May 8, 1970; Report on "Pollution Control Bonds," Vol. 50, No. 50, May 15, 1970.

EXHIBIT A

HOUSE JOINT RESOLUTION 52

Referred to Electorate of Oregon by 1969 Legislature to be voted on at the General Election, November 3, 1970.

MEASURE NO. 7

Ballot Title: CONSTITUTIONAL AMENDMENT AUTHORIZING
EDUCATION BONDS

Purpose: Authorizes bonds up to 1% of true cash value of taxable property in state to provide funds to purchase bonds of common or union high school districts or area education districts issued by the district for purposes authorized by law. Authorizes state-wide property tax to provide for payment of bonds if legislature does not provide other revenues. Supersedes conflicting constitutional requirements.

Be It Resolved by the Legislative Assembly of the State of Oregon:

Paragraph 1. The Constitution of the State of Oregon is amended by creating a new article to be known as Article XI-K and to read:

ARTICLE XI-K

Section 1. In the manner provided by law and notwithstanding the limitations contained in sections 7 and 8, Article XI of this Constitution, the credit of the State of Oregon may be loaned and indebtedness incurred in an amount not to exceed, at any one time, one percent of the true cash value of all taxable property in the state to provide funds for the purchase of bonds of any common or union high school district or area education district of the State of Oregon issued by the district for purposes authorized by law.

Section 2. Ad valorem taxes shall be levied annually upon all taxable property within the State of Oregon in sufficient amount to provide for the payment of indebtedness incurred by the state and the interest thereon. The Legislative Assembly may provide other revenues to supplement or replace such tax levies.

Section 3. Bonds issued pursuant to section 1 of this Article shall be the direct obligations of the state and shall be in such form, run for such periods of time, and bear such rates of interest, as shall be provided by law. Such bonds may be refunded with bonds of like obligation.

Section 4. The Legislative Assembly shall enact legislation to carry out the provisions of this article. This Article shall supercede all conflicting constitutional provisions.

Paragraph 2. The following shall be the ballot title for the amendment proposed by paragraph 1 of this resolution pursuant to ORS 254.060: "Authorizes bonds up to one percent of true cash value of taxable property in state to provide funds to purchase bonds of common or union high school districts or area education districts issued by the district for purposes authorized by law. Authorizes state-wide property tax to provide for payment of bonds if legislature does not provide other revenues. Supersedes conflicting constitutional requirements."

Paragraph 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next regular general election held throughout the state.

Adopted by House May 22, 1969.

Adopted by Senate May 23, 1969.

Filed with Secretary of State June 13, 1969.

EXHIBIT B

CHAPTER 654

AN ACT

Relating to bonds issued by certain school districts.

Be It Enacted by the People of the State of Oregon:

Section 1. In order to provide funds for the purposes specified in the amendment to the Oregon Constitution proposed by House Joint Resolution 52 (1969 regular session), the Director of Veterans' Affairs, with the approval of the State Treasurer, is authorized to issue and sell such general obligation bonds of the State of Oregon, of the kind and character and within the limits prescribed by the proposed constitutional amendment as, in the judgment of the director, shall be necessary. The principal amount of the bonds outstanding at any one time, issued under authority of this section, shall not exceed \$160 million par value.

Section 2. (1) At the request of the Director of Veterans' Affairs, the Attorney General shall prepare a form of direct, general obligation, interest-bearing coupon bonds of the State of Oregon to be sold in order to provide funds for carrying out the purposes of the constitutional amendment proposed by House Joint Resolution 52 (1969 regular session) and this Act. The bonds shall be numbered and shall be payable at such times and in such amounts as shall be fixed by the director. However, none of the bonds shall mature sooner than six months nor later than 30 years from issued date. The bonds shall bear interest, payable semi-annually, at such rates, as the director, with the approval of the State Treasurer, deems advisable.

(2) In the discretion of the Director of Veterans' Affairs, the bonds may be issued as provided by ORS 286.040. The bonds may be refunded either prior to or at their maturity dates. In the event of redemption or refunding prior to maturity date, the director is not required to redeem or refund bonds in the order in which they were originally issued. Refunding bonds may be sold in the same manner as other bonds are sold under this Act. The issuance of refunding bonds, their maturity dates and other details, the rights of their holders and the duties of the Governor, Secretary of State, State Treasurer and of the Director of Veterans' Affairs with respect thereto, shall be governed by the other provisions of this Act in so far as applicable. Refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

Section 3 (1) All bonds issued under this Act, including refunding bonds and the coupons appurtenant thereto, shall be direct, general obligations of the State of Oregon, in negotiable form, and shall embody an absolute promise to pay the amounts thereof in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America. The bonds shall be executed with facsimile signature of the Governor and the Secretary of State and the manual signature of the State Treasurer. The bonds shall bear coupons evidencing interest to become due for each instalment thereof upon which shall be printed the facsimile signatures of all said officers.

(2) Not less than 20 days before the payment of the principal or interest falls due on any of the bonds, the Director of Veterans' Affairs shall prepare and submit to the State Treasurer, for verification, a claim duly approved by the director for the amount necessary to meet the payment thereof. Upon such verification, the director shall present the claim in like manner as other claims against the state are presented. The claim shall be paid out of moneys provided by law for its payment.

(3) The principal of and the interest upon all bonds issued under authority of this Act, when due, shall be paid at the office of the State Treasurer; but, with the approval of the State Treasurer, the Director of Veterans' Affairs may designate a fiscal agency of the State of Oregon in the City and State of New York or such other fiscal agency of the State of Oregon as may be designated by law, as the place of payment of the bonds and of the interest thereon.

Section 4. With the approval of the State Treasurer, the Director of Veterans' Affairs shall provide such method as he deems necessary for the advertisement of each issue of the bonds mentioned in this Act before they are sold. As approved by the State Treasurer, the director shall require such deposit, with bids as he deems advisable and generally shall conduct the sale and issuance of the bonds under such rules and regulations as he may adopt.

Section 5. The money realized from the sale of each issue of bonds shall be credited to a special fund in the State Treasury, separate and distinct from the General Fund, to be designated the School Building Fund; which fund is hereby appropriated for the purpose of carrying out the provisions of this Act. It shall not be used for any other purpose, except that this money, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.776, and the earnings from such investments inure to the School Building Sinking Fund.

Section 6. (1) The State Board of Education shall be the agency for the State of Oregon for the administration of the School Building Fund. The State Board of Education is hereby authorized to use the School Building Fund to provide funds for the purchase of bonds of common or union high school districts or area education districts issued by the district for purposes authorized by law.

(2) The rate at which the state shall bid for the purchase of bonds of school districts shall not exceed a rate equal to the rate which the state pays on the bonds, the proceeds of which are applicable to the purchase of school district bonds, plus an amount not to exceed .0025 percent of the par value of the school district bonds.

(3) The board shall by rule establish standards and priorities to be used in determining which bonds are to be purchased under this Act.

Section 7. (1) The Director of Veterans' affairs shall maintain, with the State Treasurer, a School Building Sinking Fund, separate and distinct from the General Fund. The School Building Sinking Fund shall provide for the payment of the principal and interest upon bonds and the administrative costs incurred in the administration of this Act, which shall not exceed .0025 percent of the par value of the bonds, issued under authority of the amendment to the Oregon Constitution proposed by House Joint Resolution 52 (1969 regular session) and this Act. Moneys of the sinking fund are hereby appropriated for such purpose. With the approval of the Director of Veterans' Affairs, the moneys in the School Building Sinking Fund may be invested as provided by ORS 293.701 to 293.776, and earnings from such investment shall be credited to the School Building Sinking Fund.

(2) The School Building Sinking Fund shall consist of all moneys received from any school district ad valorem taxes levied pursuant to this Act, all moneys that the Legislative Assembly may provide in lieu of such taxes and all earnings of the School Building Fund.

(3) The School Building Sinking Fund shall not be used for any purpose other than that for which the fund was created. Should a balance remain therein after the purposes for which the fund was created have been fulfilled or after a reserve sufficient to meet all existing obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to the General Fund at the direction of the Director of Veterans' Affairs.

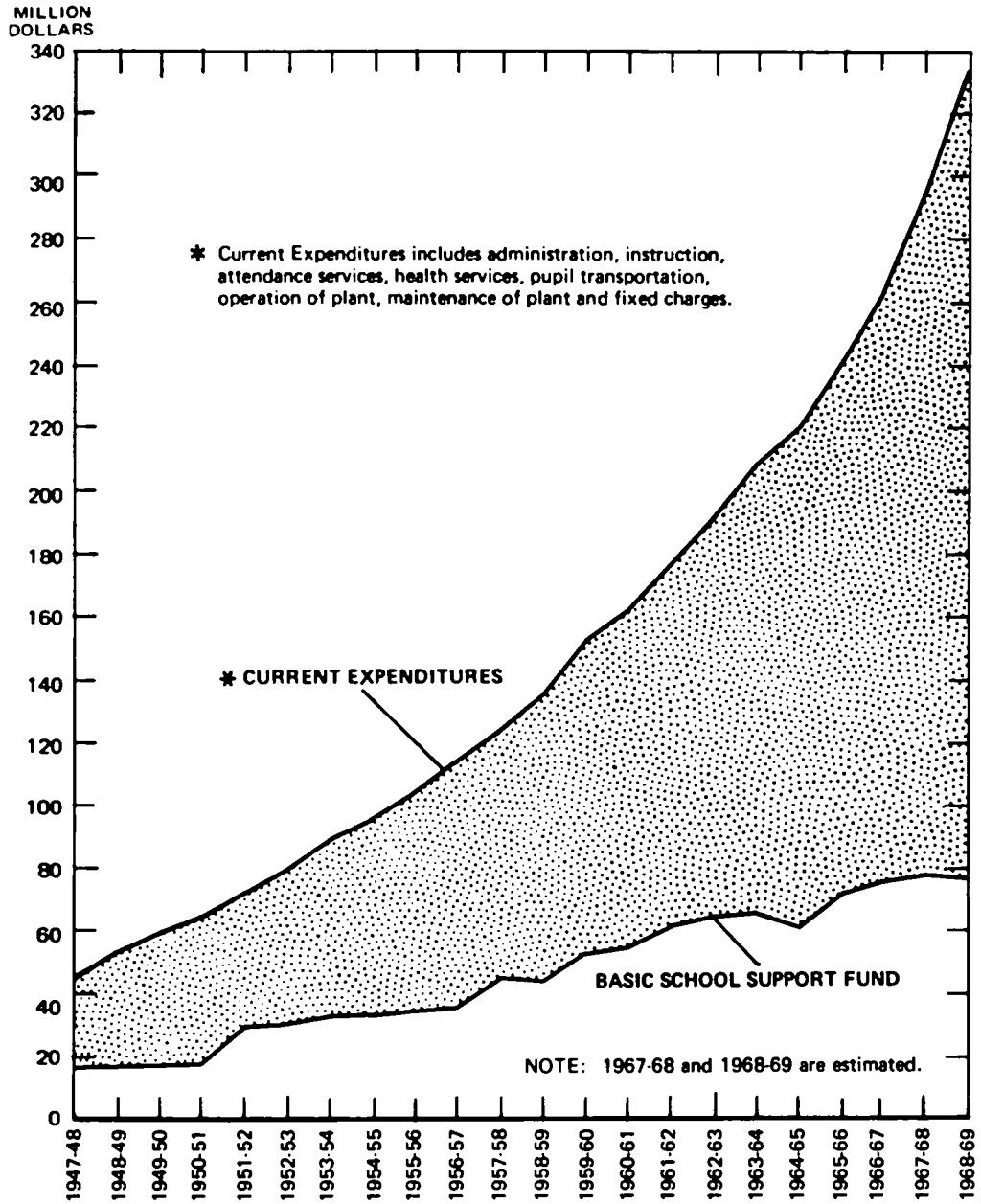
Section 8. Each year the State Tax Commission shall determine the amount of revenues and other funds that are available and the amount of taxes, if any, that should be levied in addition thereto to meet the requirements of this Act for the ensuing fiscal year. Such additional amount of tax is hereby levied and shall be apportioned, certified to, and collected by the several counties of the state in the manner required by law for the apportionment, certification and collection of other ad valorem property taxes for state purposes. This tax shall be collected by the several county treasurers and remitted in full to the State Treasurer in the manner and the times prescribed by law, and shall be credited by the State Treasurer to the School Building Sinking Fund.

Section 9. This Act shall not be operative unless the Constitution of the State of Oregon is amended by vote of the people at the next regular general election held throughout the state, to adopt the constitutional amendment in House Joint Resolution 52 (1969 regular session).

Approved by the Governor June 16, 1969.

Filed in the office of Secretary of State June 16, 1969.

EXHIBIT C BASIC SCHOOL SUPPORT FUND IN RELATION TO CURRENT EXPENSES



REPORT
ON
**INVESTING FUNDS DONATED TO
HIGHER EDUCATION**

(State Measure No. 4)

Purpose: Constitutional amendment permitting state to invest in stock of any company, association or corporation any funds that are donated or bequeathed for higher education purposes.

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was charged with studying and bringing to the membership its recommendation on State Measure No. 4 (House Joint Resolution 27). HJR 27 referred to the electorate an amendment to Section 6, Article XI of the Constitution of the State of Oregon.

This proposed amendment would authorize the State to invest funds donated or bequeathed to it for higher education purposes or to reinvest dividends from or proceeds from the sale of donated or bequeathed stock, in capital stock in any company, association or corporation. Presently the investment of such funds is limited to bonds and mortgages.

The full text of House Joint Resolution 27 is found in Exhibit A attached hereto.

II. SCOPE OF RESEARCH

In the course of its study your Committee, by one or more of its members, interviewed the following persons:

Victor G. Atiyeh, Oregon State Senator
H. A. Bork, Consultant, Oregon State Board of Higher Education
Stafford Hansell, Oregon State Representative
Don R. Larson, Assistant Chancellor, Oregon State System of
Higher Education
Thomas E. Morris, Vice President and Resident Manager,
Blyth & Co., Inc.
Finley P. Mullins, Controller, Lewis and Clark College
Wallace S. Priestley, Oregon State Representative
Robert W. Straub, Treasurer, State of Oregon
George F. Wingard, Oregon State Representative

In addition, your Committee solicited and received communications from the following sources outside of the State of Oregon:

James M. Furman, Executive Coordinator, Washington Council for
Higher Education, State of Washington
John P. Jehu, Associate Counsel, The State Education Department,
State of New York
Willard B. Spalding, Deputy Director, Coordinating Council for
Higher Education, State of California
Robert W. Ward, Secretary of State, State of Alaska

III. BACKGROUND AND HISTORY

The original constitutional prohibition against State ownership of stock was an apparent attempt to bar the State from helping finance railroads in the guise of buying stock in them.

In 1956 the State Board of Higher Education requested and secured voter approval of an amendment, as an exception to the general prohibition, authorizing the retention by the State of stock that had been donated or bequeathed, thus giving the State power to accept, hold or sell such stock. The power granted in 1956 does not allow the State to purchase stock with donated or bequeathed funds or with the proceeds received from the sale of, or dividends on, donated or bequeathed stock. In other words, donated or bequeathed stock may now be held, but if sold, the proceeds may not be reinvested in stocks. The Board of Higher Education seeks by the proposed amendment removal of this limitation with respect to stock or funds donated or bequeathed for higher education purposes.

IV. ARGUMENTS ON THE MEASURE

A. Arguments presented to your Committee favoring Measure No. 4 include:

1. It would enable the Board of Higher Education to develop a balanced investment portfolio.

2. Allowing purchase of capital stock would encourage donors to contribute to the State System because of the favorable image of a managed and balanced portfolio.

3. The present limitation discourages prudent investment management because fund managers can only hold or sell stock. As a result they presently have approximately \$3 million in the stock of 150 companies which is a burdensome number of issues to administer.

4. Capital stock investment is one of the best long range hedges against inflation and, to the extent that fixed income is not of primary importance, capital stock should be included for long-term investment objectives.

5. Institutions of higher education in Western states generally have authority to purchase corporate stocks. Examples are: Washington State University and the Universities of California, Idaho, Nevada and Washington.

6. Private non-profit corporations affiliated with some institutions in the Oregon State System of Higher Education, such as the University of Oregon Development Fund and the Oregon State University Foundation, presently have authority to invest in capital stock.

B. Arguments in opposition included:

1. Funds donated for or dedicated to public purposes should be invested conservatively, i.e., only in fixed-income investments.

2. The cost of obtaining adequate investment counseling is too high for the benefits that may result.

V. GENERAL DISCUSSION

There was general agreement, both among the persons interviewed and the members of your Committee, that capital stock is now generally recognized as an integral part of a balanced investment portfolio. In light of the nature of our free enterprise system, prudent management of relatively high grade stocks is not considered to be "gambling" but is rather a realistic hedge against the inflationary trend of our economy. Your Committee recognizes, however, that there is some public sentiment favoring wholly "conservative" management of funds dedicated to public purposes despite the widespread acceptance of capital stock as an investment tool.

Oregon statutes specify observance of the "prudent man rule" by fiduciaries in their management of funds in trust. In effect, this rule requires exercise of the same care and judgment which men of prudence, discretion and intelligence exercise in the long-range, non-speculative management of their own funds, considering both income and safety of capital.

The proposed amendment is not self-executing but would require enabling legislation. Presumably such legislation would provide the standards and restrictions under which capital stock investment could be made.

Your Committee found no organized opposition to the proposed measure. All but two of the persons with whom your Committee talked urged passage of the amendment with most of the discussion centered upon how the new authority granted by this amendment should be administered. This included discussion of whether to establish a maximum per cent of the portfolio that could be represented by capital stock and of whether the portfolio should be under one or more professional management consultants or whether the State Board of Higher Education should be allowed to continue its present administration of these funds.

VI. CONCLUSIONS

1. Passage of Measure No. 4 would give the State Board of Higher Education more flexibility in the investment of higher education funds.
 - a. It would allow an updating of the present capital stock portfolio.
 - b. It would permit a more balanced portfolio of both fixed-income investments and capital stock, thereby making it possible to support fixed obligations and also provide protection against inflation.
 - c. It might encourage gifts from those donors who may expect, prefer or require that their donations be invested in a balanced portfolio.
2. The Committee feels passage of this measure would require enabling legislation to define investment policy and procedure. In preparing such legislation, the following should be considered:
 - a. Control of investments would probably best be handled in a manner similar to that now used for investment of that portion of the Public Employees Retirement Fund and the Industrial Accident Fund which may be invested in corporate stock, where recommendations are made by independent investment advisers and are subject to review by an Investment Council. Use of the same advisers for the higher education funds might lower the total cost of this service.
 - b. The "prudent man rule" should be used in investing these funds; considering the special nature of these funds, their source and purpose, their investment should not be in speculative issues. In the interest of flexibility within the "prudent man rule," specification of a maximum percentage of portfolio which may be invested in capital stock is not advisable.

VII. RECOMMENDATION

Your Committee recommends that the City Club go on record as favoring this measure, and urges a "Yes" vote on state Ballot Measure No. 4.

Respectfully submitted,

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Merle E. Greenstein
Damon W. Greer
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Approved by the Research Board October 8, 1970 for transmittal to the Board of Governors.

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**REPORT
ON
NEW PROPERTY TAX BASES FOR SCHOOLS
(State Measure No. 10)**

Purpose: Constitutional amendment setting new tax bases for schools based on current expenditures plus 6% annual increase. Restricts authority to levy outside tax base. Presently, many school districts' tax bases are far below current expenditures, thus requiring annual budget elections. Provides that Legislature may increase tax bases for increased student enrollment and also reduce tax bases. Otherwise, tax bases cannot be changed without popular vote. Only two elections per year permitted unless Legislature provides otherwise.

To the Board of Governors,
The City Club of Portland

Your Committee authorized to study the proposed amendment to Section 11, Article XI of the Constitution of the State of Oregon reports and recommends as follows:

I. THE PROPOSED AMENDMENT

The proposed amendment is submitted to the electorate of Oregon by initiative petition to be voted on at the general election November 3, 1970. The Oregon Education Association, the Oregon School Boards Association, and the Oregon Association of School Administrators were co-sponsors of the initiative petition drive. The Measure is opposed by the Women's Legislative Council, the Portland Board of Realtors, and the Oregon Apartment Association, Inc.

II. SCOPE OF COMMITTEE RESEARCH

The Committee interviewed the following:

1. State Senator Victor Atiyeh, Vice Chairman of the Senate Taxation Committee and head of the Citizens' Committee for Stable School Finance.
2. William O. Carlson, Executive Vice President of the Portland Board of Realtors;
3. P. C. Diegel, representing the Oregon Apartment Association;
4. Mrs. Luella Engelter, Executive Director of the Oregon Apartment Association;
5. Clay Myers, Secretary of State, State of Oregon;
6. Dr. Dale Parnell, Superintendent of Public Instruction, Oregon Board of Education;
7. Cecil W. Posey, Executive Director of the Oregon Education Association;
8. Robert L. Ridgley, member of the School Board for District No. 1;
9. Mrs. Richard Sundleaf, representing the Women's Legislative Council; and
10. Harold Swafford, Director of Community Education for Beaverton School District No. 48.

III. HISTORY OF THE SIX PERCENT TAX LIMITATION

At its original adoption in 1916, Section 11 of Article XI of the Oregon Constitution provided that the annual increase in property taxes levied by any taxing unit would be limited to six percent of the total property taxes levied in the preceding year. Levies for payments of bonded indebtedness or special levies approved by ballot were "outside" the limitation and had no effect on its application.

In 1932, an amendment to Section 11 permitted the six percent increase to be

computed on the base of the property tax levy made by the taxing unit in any one of the three preceding years.

A 1952 amendment authorized a special alternative to the six percent limitation. The amount of tax permitted under the existing six percent rule was redefined as the "tax base" of the particular taxing units, beyond which it might not levy except for purposes of bonded indebtedness or by a specially voted levy in excess of the tax base. Also, the voters of the taxing district could have submitted to them by ballot the question of establishing a new tax base of any specified amount. If the voters approve the new tax base, the taxing district can levy up to the amount of such tax base for the fiscal year following its adoption. Levies for subsequent years would be subject to application of the six percent limitation starting from the new tax base.

In 1962, an amendment set the tax base at an amount obtained by adding six percent to the total amount of property tax levied by the taxing district in any one of the last three years in which such a tax was levied by the district (as opposed to one of the immediately preceding three years.)

IV. BACKGROUND OF PROPOSED AMENDMENT

The "tax base" of a school district is the amount of money such district can levy in property taxes without a vote of the people in the district.

At present, 238 of Oregon's 350 school districts do not have a tax base. Therefore, these districts must go to the voters every year for approval of all or a large portion of their operating budgets.

Most districts with a tax base find it necessary to levy taxes in excess of the six percent limitation to meet their operating needs, and therefore must go to the voters for approval each year.

For the year 1970-71, there are 16 local school districts operating within the six percent limitation. The remainder, a total of 334 local school districts, went to the polls for voter approval of amounts for operating purposes.

Results of elections for 1970-71 were as follows:

- 222 districts passed their budgets at their first election;
- 70 passed their budgets on the second election;
- 29 passed their budgets at the third election;
- 10 passed their budgets on the fourth election; and
- 3 passed their budgets on the fifth election.

Thus, a total of 504 elections was held this year.

School District No. 1 in Portland is one of the districts which has adopted a new tax base in recent years. On the other hand, School District No. 48 in Beaverton has a tax base of approximately \$296,000, and its last tax levy approved by the voters was in excess of \$14,000,000.

Generally speaking, it appears that tax bases throughout the State are unrealistically low and that numerous school district elections are burdensome.

A plan similar to that involved in the present measure was developed in conjunction with the sales tax package some years ago. It is now presented alone as an improvement upon current school financing methods.

V. ANALYSIS OF THE PROPOSED AMENDMENT

Adoption of the measure would remove school districts from the limitations imposed upon all taxing bodies by Section 11, Article XI, of the Oregon Constitution, and subject school districts to special limitations as imposed by this Measure No. 10, which if adopted would become Section 11a of Article XI.

The substantive changes which would be brought about by adoption of this measure are as follows:

1. A new tax base would be established for the year 1971-72 for all school districts throughout the State of Oregon. The new tax base would be an amount which is the sum of:
 - a. The school district's total levy for 1970-71; plus
 - b. The State basic school support to the district; plus
 - c. Receipts from the County School Fund; plus
 - d. Six percent of the above three items.
2. The tax base would thereafter increase automatically at the rate of six percent each year applied to the tax base for the preceding year, even though the taxing body did not levy a tax in that amount. (As noted in 4(b) below, the Legislature may reduce the rate of increase.)
3. After June 30, 1971, any amounts received from the State as school support would be offset against the property tax levy.
4. The Legislature would be given power:
 - a. To increase the tax base of a school district based upon demonstrated growth in its student population; (no comparable method for reduction is provided)
 - b. To lower statewide the rate of increase of the tax base to a figure less than six percent annually; and
 - c. To set dates between April 1 and June 30 for elections establishing or increasing tax bases.
5. Voters of any individual school district could establish a new tax base or increase an existing tax base at a special election held between April 1 and June 30.

VI. ARGUMENTS IN FAVOR OF THE AMENDMENT

The Measure:

1. *Establishes modern, realistic tax bases which are badly needed.* Approximately two-thirds of Oregon's 350 school districts do not have tax bases at all. Most districts with tax bases find it necessary to levy taxes outside the six percent limitation to meet their operating needs and must go to the voters annually for approval of such excess.
2. *Gives stability to school financing.* With an adequate tax base, the basic instructional program of every local school district would be assured. Providing a new tax base would stabilize the funding of operating costs of primary and secondary schools in each school district commensurate to current needs. Because funds to operate the basic programs would be assured, voters would not be faced each year with a "gun-at-the-head" all or nothing choice on tax levies.
3. *Aids long-range planning.* Reliance upon stable budgets allows school administrators and school boards to assume financial responsibility for long-term planning and completion of programs, an ability not currently available.
4. *Makes for economy in school operations.* The measure would bring economy to the schools by allowing long range purchasing of supplies, equipment and services. At present, the efficient use of school money is not possible because many budgets are not approved before expenditures actually begin for the new school year.
5. *Eliminates the present procedure of conducting numerous school budget elections.* An unlimited series of elections can now be held to approve school budgets. These elections are costly and require an inordinate amount of educators' time to present facts about school needs before the voters. The measure would eliminate all operating budget elections. In addition, it would, unless the Legislature provides otherwise, limit to two each year the number of elections to increase tax revenues by increasing the tax base. The dates of these elections would be between April 1 and June 30 on such dates as the Legislature may set. Setting uniform dates for all elections by the Legislature would promote greater publicity for them and encourage greater voter participation. With reasonably adequate tax bases, school districts would go to the voters in fewer instances.

6. *Would result in property tax relief.* The proposed measure would encourage property tax relief by the Legislature. Currently, about 30 percent of school funds comes from the State Basic School Support Fund and other sources, and about 70 percent from property taxes. These State funds are presently treated as extra income by the school districts and have no effect upon the present six percent property tax limitation. The proposed amendment would provide that State funds allocated in future years for school support would be offset against taxes levied under the new enlarged tax base. Thus, increased State Basic School Support would result in a lower property tax levy than would apply under present law, (but only if such support is greater than the amount by which the new tax base, plus automatic six percent increases, exceeds present property tax levels). The Legislature will more readily allocate additional funds to State Basic School Support, knowing that it will result in property tax relief.

7. *Gives flexibility for future changes in tax needs.* The measure provides flexibility inasmuch as the Legislature could provide for increased tax bases to reflect increases in numbers of resident pupils. As stated before, no comparable method for reduction is provided. The Legislature could also reduce the six percent rate of increase on a statewide basis.

VII. ARGUMENTS OPPOSED TO THE MEASURE

The Measure:

1. *Eliminates local budgetary control.* School taxes, budgets and programs should be subject to vote of the taxpayer in the district each year. Adoption of this measure would remove control and budgetary decision-making authority from the local school district voter and give such powers to school boards and the Legislature. A school district could commit itself to long-range programs of controversial or experimental nature. The proposal would limit opportunity for citizens either to protest or to substitute alternatives.

2. *Deprives local school district voters of the right to control their district's tax base.* There is no reason to establish tax bases statewide. Under the proposed measure, voters could only increase, not reduce, an established tax base. Needs of districts vary, and each should receive the individual consideration of its own taxpayers.

3. *Increases rate of growth of tax base.* This measure's version of the six percent limitation would apply to a greatly enlarged tax base and increase automatically six percent each year, compounded, regardless of whether the tax base is used by levy of the maximum tax allowed. The rate of increase would result in the enlarged tax base (i.e., the district's 1970-71 property tax base, plus State Basic School Support, plus receipts from County School Fund, plus six percent thereof) being doubled in twelve years.

4. *Does not assure property tax relief.* The Legislature would have to increase Basic School Support by the sum of all automatic six percent increases in the tax base in order for property taxes merely to remain at the present level. Otherwise, the power of a school board to collect increased property taxes would be automatically enlarged to make up the difference without authorization of the local voter. Local real property taxes would fluctuate with changes made by the Legislature in Basic School Support.

5. *Is not an adequate limitation on taxing power.* The measure would remove school districts from the current six percent property tax limitation and would give them an automatic escalation of the tax base built into the Constitution. This limitation is not sufficient protection to the taxpayer. There is no justification for so favoring school districts over other local taxing units.

6. *Robs local voters of control of education.* The ballot is the principal means by which local voters maintain control over the quality and philosophy of local education.

VIII. CONCLUSIONS

Your Committee agrees upon the following conclusions which it believes outweigh other considerations.

1. Enactment of a constitutional provision for automatic escalation of an enlarged tax base at a compounded rate of six percent per annum with no means to reduce that base short of another Constitutional Amendment is undesirable. (Your Committee believes the statement in the Measure No. 10's purpose that the Legislature has such power is erroneous and misleading.)

2. The present Constitution provides a mechanism for establishing realistic tax bases by local vote. Power to control tax bases for each local school district should not be removed entirely from the voters of that district.

3. Your Committee believes that, generally speaking, school tax bases throughout the State are now unrealistically low and that action should be taken to raise them to adequate levels. However, the Committee does not feel that this should be done in the manner provided by the proposed Constitutional Amendment.

4. The success of budgetary elections under the present system does not indicate serious instability or that there is a real danger to the fundamental educational program in most school districts.

5. Adoption of the measure will not of itself result in lower real property taxes and, in the absence of a substantial increase in the State's Basic School Support funds, could result in greater than normal property tax increases.

IX. RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record as opposing this Constitutional Amendment and urges a vote of "No" on State Ballot Measure No. 10.

Respectfully submitted,

Leonard Bennett
D. Stanley Boggs
William C. Carpenter
Kenneth E. Herber
Roy G. Kimball
Raymond Rowe, *and*
John P. Bledsoe, *Chairman*

Approved by the Research Board October 8, 1970 for transmittal to the Board of Governors.

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10% per year increase in new property

Measure No. 10

Approved by the Research Board

EXHIBIT A

Submitted to the Electorate of Oregon by Initiative Petition to be voted on at the General Election, November 3, 1970.

MEASURE NO. 10

Ballot Title: NEW PROPERTY TAX BASES FOR SCHOOLS

Purpose: Constitutional amendment setting new tax bases for schools based on current expenditures plus 6% annual increase. Restricts authority to levy outside tax base. Presently, many school districts' tax bases are far below current expenditures, thus requiring annual budget elections. Provides that legislature may increase tax bases for increased student enrollment and also reduce tax bases. Otherwise, tax bases cannot be changed without popular vote. Only two elections per year permitted unless legislature provides otherwise.

Be It Enacted By The People of the State of Oregon:

Paragraph 1. The constitution of the State of Oregon is amended by creating a new section to be added to and made a part of Article XI and to read:

Section 11a (1) As used in this section, "school district" as may be defined by law is a district providing public education or educational services in any of the elementary and secondary grades, excepting area education districts.

(2) Notwithstanding section 11, Article XI of this Constitution and except as provided in subsections (6) to (9) of this section, no school district shall exercise the power to levy an ad valorem tax in any year so as to raise a greater amount of revenue than its tax base, as defined in subsections (3) to (5) of this section. The portion of any ad valorem tax levied in excess of any limitation imposed by this section shall be void. After June 30, 1971, there shall be offset against any tax levied by the school district for any year an amount equal to the school support of the school district for that year, as defined by law.

(3) The tax base of a school district for years following 1971-1972 shall be its tax base for the preceding year plus an additional amount specified in subsection (4) of this section, except that a new tax base may be approved by a majority of qualified voters of the school district voting at an election, held as specified by subsection (6) of this section, on the question submitted to them in a form specifying in dollars and cents the amount of the tax base otherwise in effect under this section and the amount of the new tax base submitted for approval. A new tax base so approved by the voters shall increase as any other tax base authorized under this section. The tax base of a school district may not exceed any amount that has been prescribed by the Legislative Assembly under paragraph (a) of subsection (8) of this section unless a new tax base thereafter is approved as provided in this subsection. A tax base is not reduced because a school district levies a lesser amount than permitted by such tax base, or because amounts are offset against the levy of the school district under subsection (2) of this section.

(4) Except as provided in subsection (8) of this section, the tax base of a school district shall increase each year by an amount equal to six percent of the tax base of the school district for the year immediately preceding the current year.

(5) The tax base of a school district for the year 1971-1972 shall be:

(a) The total levy of the school district as certified to the County Assessor for the fiscal year 1970-71, exclusive of the tax levy for those items listed in paragraphs (a) and (b) of subsection (9) of this section; plus

(b) The school support for elementary and secondary education received within the school district for the year 1970-71, as defined by law; plus

(c) The receipts of the school district from the County School Fund for the year 1970-1971; plus

(d) Six percent of the sum of paragraphs (a), (b), and (c) of this subsection.

(6) Notwithstanding section 11, Article XI of this Constitution, and subsections (2) to (5) of this section, a school district may increase its tax base if the amount of such increase is approved by a majority of the qualified voters of the school district voting on the question submitted to them in a form prescribed by law. Elections for this purpose may be held between April 1 and June 30, except that specific times within this period for such elections may be prescribed by law. However, after December 31, 1970, and except as otherwise prescribed by law not more than two such elections shall be held during any year.

(7) Notwithstanding section 11, Article XI of this Constitution, and subsections (2) to (5) of this section, during the year following an annexation, merger or consolidation, the tax base of a school district shall be determined in a manner consistent with this section as prescribed by law.

(8) Notwithstanding section 11, Article XI of this Constitution, and subsections (2) to (5) of this section, the Legislative Assembly by law may prescribe:

(a) A uniform rate of increase in tax bases that is lower in amount than that otherwise provided under subsection (4) of this section; and

(b) A method for increasing the tax bases for school districts to reflect increases in the number of resident pupils therein, or to establish or increase a tax base for any taxing unit to permit the raising of revenue to be used as an offset against levies made by school districts.

(9) The limitations imposed by this section do not apply in the case of:

(a) Levies for the retirement of bonded or other indebtedness and payment of the interest thereon, where such indebtedness is authorized by the qualified voters of the district;

(b) Serial levies as prescribed by law and as authorized by the qualified voters of the district; or

(c) Levies to raise revenue to be used as an offset against levies made by school districts.