

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 738 By: Montgomery of the Senate  
3 and  
4 McEntire of the House  
5  
6

7 [ Interlocal Cooperation Agreement - certain  
8 agreement be subject to insurance examination - power  
9 and duties of boards of education - codification -  
10 effective date ]

11 AMENDMENT NO. 1. Delete the stricken title, enacting clause and  
12 entire bill and replace with:

13 "An Act relating to insurance; amending 36 O.S. 2011,  
14 Section 607.1, as last amended by Section 2, Chapter  
15 73, O.S.L. 2016 (36 O.S. Supp. 2020, Section 607.1),  
16 which relates to insurers; modifying conditions that  
17 consider an entity an insurer; requiring notice and  
18 filing for asserted insolvent insurers; directing  
19 compliance with the Insurance Commissioner's  
20 requirements; authorizing supervision of insurer;  
21 imposing fine; authorizing promulgation of rules;  
22 and providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 36 O.S. 2011, Section 607.1, as  
last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.  
2020, Section 607.1), is amended to read as follows:

1 Section 607.1 A. An entity organized pursuant to the  
2 Interlocal Cooperation Act (an "Interlocal Entity") for the purpose  
3 of transacting insurance, ~~except those Interlocal Entities created~~  
4 ~~pursuant to the terms of The Governmental Tort Claims Act, that~~  
5 insures an Oklahoma educational institution shall be considered an  
6 insurer ~~at such time that the entity has within a twelve-month~~  
7 ~~period received aggregate premiums of One Million Dollars~~  
8 ~~(\$1,000,000.00)~~ for all kinds of insurance that the entity  
9 transacts. Such an entity shall ~~be eligible to qualify for and hold~~  
10 a certificate of authority to transact insurance in this state.

11 B. ~~Notwithstanding the provisions of subsection A of this~~  
12 ~~section, any~~ Any entity organized pursuant to the Interlocal  
13 Cooperation Act that insures an Oklahoma educational institution and  
14 has within a twelve-month period received premiums or contributions  
15 of any amount for any kind of insurance that the Interlocal Entity  
16 transacts shall have an annual audit by an independent certified  
17 public accountant and shall file an audited financial report by an  
18 independent certified public accountant with the Insurance  
19 Commissioner within one hundred eighty (180) days immediately  
20 following the close of the Interlocal Entity's fiscal year. The  
21 annual audited financial report shall be presented in conformity  
22 with accounting principles generally accepted in the United States  
23 of America and include:

24

- 1 1. The report of an independent certified public accountant in  
2 accordance with accounting principles generally accepted in the  
3 United States of America;
- 4 2. A balance sheet reporting assets, liabilities and equity;
- 5 3. A statement of operations;
- 6 4. A statement of cash flows;
- 7 5. A statement of changes in assets, liabilities and equity;
- 8 6. Footnotes to financial statements; and
- 9 7. An unqualified opinion from the certified public accountant  
10 that the audited financial report represents a fair presentation of  
11 the Interlocal Entity's financial position in conformity with  
12 accounting principles generally accepted in the United States of  
13 America.

14 C. Any entity subject to the provisions of subsection B of this  
15 section, except those entities which purchase full insurance  
16 coverage as determined by the Commissioner, shall file with the  
17 Insurance Commissioner an actuarial opinion prepared by a qualified  
18 actuary within one hundred eighty (180) days immediately following  
19 the close of the Interlocal Entity's fiscal year. The actuarial  
20 opinion should certify the amount and adequacy of the Interlocal  
21 Entity's reserves for loss and loss adjustment expenses, including  
22 amounts for Incurred But Not Reported (IBNR) Claims, and the  
23 adequacy of the Interlocal Entity's premiums. The actuarial opinion  
24

1 shall be consistent with the appropriate Actuarial Standards of  
2 Practice (ASOP) as promulgated by the Actuarial Standards Board.

3 As used in this section, "qualified actuary" means an individual  
4 who is a member of the American Academy of Actuaries and who has met  
5 the Qualification Standards for Actuaries Issuing Statements of  
6 Actuarial Opinions in the United States promulgated by the American  
7 Academy of Actuaries.

8 D. Extensions of the filing date may be granted by the  
9 Commissioner for thirty-day periods upon a showing by the Interlocal  
10 Entity and its independent certified public accountant or qualified  
11 actuary of the reasons for requesting an extension and determination  
12 by the Commissioner of good cause for an extension. The request for  
13 extension must be submitted in writing not less than ten (10) days  
14 prior to the due date in sufficient detail to permit the  
15 Commissioner to make an informed decision with respect to the  
16 requested extension.

17 E. The Commissioner may assess a fine for failure to file the  
18 required annual audit or actuarial opinion in an amount of not more  
19 than Five Hundred Dollars (\$500.00) per day.

20 F. The audited financial reports and actuarial opinions  
21 required herein are subject to public inspection pursuant to the  
22 Oklahoma Open Records Act.

23 G. The Insurance Commissioner shall, if there is substantial  
24 reason to believe that any insurer subject to this section is

1 insolvent, or if any such insurer's condition is such as to render  
2 the continuance of its business hazardous to the public or to  
3 holders of its policies or certificates of insurance, or it has  
4 exceeded its powers, or it has failed to comply with the law, or if  
5 such insurer gives its consent:

6 1. Notify the insurer and its participating members of the  
7 Commissioner's determination;

8 2. Require the insurer to file with the Insurance Commissioner  
9 a written plan of action to abate the Commissioner's determination  
10 within thirty (30) days of notification; and

11 3. If the Commissioner makes a further determination to  
12 supervise, notify the insurer that it is under supervision pursuant  
13 to this section.

14 H. An insurer subject to subsection G of this section shall  
15 comply with the lawful requirements of the Commissioner and, if  
16 placed under supervision, shall have ninety (90) days from the date  
17 of notice within which to comply with the requirements of the  
18 Commissioner unless the Commissioner designates a lesser or greater  
19 period of time or unless the Commissioner determines at any time  
20 during or after the ninety-day period of time that judicial or  
21 administrative proceedings should be initiated to place such insurer  
22 in conservation, rehabilitation or liquidation proceedings or other  
23 delinquency proceedings, pursuant to Sections 1801 through 1920 of  
24 this title. If such insurer does not comply with such requirements,

1 such supervision may continue until such requirements are remedied  
2 or until the Commissioner approves or completes pursuit of  
3 additional options as provided in the Insurance Code.

4 I. The Commissioner may assess a fine for failure to timely  
5 file a written plan of action required under subsection G of this  
6 section in an amount of not more than Five Hundred Dollars (\$500.00)  
7 per day.

8 J. The Insurance Commissioner may promulgate rules to implement  
9 the provisions of this section.

10 SECTION 2. This act shall become effective November 1, 2021."

11 Passed the House of Representatives the 21st day of April, 2021.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

1 ENGROSSED SENATE  
2 BILL NO. 738

By: Montgomery of the Senate

3 and

4 McEntire of the House

5  
6  
7 [ Interlocal Cooperation Agreement - certain  
8 agreement be subject to insurance examination - power  
9 and duties of boards of education - codification -  
10 effective date ]

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1009 of Title 74, unless there  
14 is created a duplication in numbering, reads as follows:

15 Any entity organized by an interlocal agreement between two or  
16 more school districts or public agencies to provide insurance for  
17 any purpose shall be subject to examination by the Insurance  
18 Commissioner in the same manner and as often as licensed insurance  
19 companies are examined pursuant to Sections 309.1 through 309.7 of  
20 Title 36 of the Oklahoma Statutes, if the entity has received  
21 premiums within a twelve-month period.

22 SECTION 4. AMENDATORY 70 O.S. 2011, Section 5-117, as  
23 last amended by Section 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp.  
24 2020, Section 5-117), is amended to read as follows:

1 Section 5-117. A. The board of education of each school  
2 district shall have power to:

3 1. Elect its own officers; provided that the chair of the board  
4 authorized in Section 5-107B of this title shall be elected by the  
5 electors of the school district;

6 2. Make rules, not inconsistent with the law or rules of the  
7 State Board of Education, governing the board and the school system  
8 of the district, including converting all or part of a traditional  
9 public school to a conversion school;

10 3. Maintain and operate a complete public school system of such  
11 character as the board of education shall deem best suited to the  
12 needs of the school district;

13 4. Designate the schools to be attended by the children of the  
14 district;

15 5. Provide and operate, when deemed advisable, cafeterias or  
16 other eating accommodations, thrift banks or other facilities for  
17 the teaching and practice of thrift and economy, bookstores, print  
18 shops, and vocational and other shops;

19 6. Provide informational material concerning school bond  
20 elections and millage elections, including but not limited to all  
21 pertinent financial information relative to the bond issue, a  
22 statement of revenue sources necessary to retire proposed bonds, a  
23 statement of current bonded indebtedness of the school district, and  
24 a statement of proposed use of funds to be generated by the proposed



1 bond issue. The informational material shall not contain the words  
2 "vote yes" or "vote no" or any similar words or statement any place  
3 on such informational material;

4 7. Purchase, construct or rent, and operate and maintain,  
5 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation  
6 places and playgrounds, teacherages, school bus garages,  
7 laboratories, administration buildings, and other schoolhouses and  
8 school buildings, and acquire sites and equipment for the operation  
9 of public schools or conversion schools;

10 8. a. Insure the school district or its employees against  
11 any loss, damage or liability as defined by Sections  
12 702 through 708 of Title 36 of the Oklahoma Statutes,  
13 or other forms of insurance provided for in Title 36  
14 of the Oklahoma Statutes.

15 b. Subject to the restrictions of liability in the  
16 Governmental Tort Claims Act:

17 (1) insure the school district against all or any  
18 part of any liability it may incur for death,  
19 injury or disability of any person, or for damage  
20 to property, either real or personal,

21 (2) insure any employee of the school district  
22 against all or any part of the employee's  
23 liability for injury or damage resulting from an  
24 act or omission in the scope of employment, or

1 (3) insure against the expense of defending a claim  
2 against the school district or its employee,  
3 whether or not liability exists on such claim.

4 c. As used in this subsection, "employee" means any  
5 person who has acted in behalf of a school district,  
6 whether that person is acting on a permanent or  
7 temporary basis with or without being compensated or  
8 on a full-time or part-time basis. Employee also  
9 includes all elected or appointed officers, members of  
10 governing bodies of a school district, and persons  
11 appointed, and other persons designated by a school  
12 district to act in its behalf.

13 d. The cost or premium of any such insurance is a proper  
14 expenditure of the school district.

15 e. Any insurance authorized by law to be purchased,  
16 obtained or provided by a school district may be  
17 provided by:

18 (1) self-insurance, which may be, but is not required  
19 to be, funded by appropriations to establish or  
20 maintain reserves for self-insurance purposes.  
21 Any self-insurance reserve fund shall be  
22 nonfiscal and shall not be considered in  
23 computing any levy when the school district makes  
24 its annual estimate for needed appropriations,

- 1 (2) insurance in any insurer authorized to transact  
2 insurance in this state,  
3 (3) insurance secured in accordance with any other  
4 method provided by law, or  
5 (4) any combination of insurance authorized by this  
6 section.

7 f. (1) Two or more school districts or public agencies,  
8 by interlocal agreement made pursuant to the  
9 Interlocal Cooperation Act, may provide insurance  
10 for any purpose by any one or more of the methods  
11 specified in this section. The entity created by  
12 the interlocal agreement shall be subject to  
13 examination by the Insurance Commissioner in the  
14 same manner and as often as licensed insurance  
15 companies are examined pursuant to Sections 309.1  
16 through 309.7 of Title 36 of the Oklahoma  
17 Statutes, if it has received premiums for  
18 insurance it provides for any purpose within a  
19 twelve-month period.

20 (2) The pooling of self-insured reserves, claims or  
21 losses among governments as authorized in this  
22 section shall not be construed to be transacting  
23 insurance nor otherwise subject to the provisions  
24 of the laws of this state regulating insurance or

1 insurance companies, except as to the provisions  
2 of Section 607.1 of Title 36 of the Oklahoma  
3 Statutes. Two or more school districts may also  
4 be insured under a master policy or contract of  
5 insurance. Premium costs may be set individually  
6 for each school district or apportioned among  
7 participating school districts as provided by the  
8 master policy or contract;

9 9. Acquire property by condemnation proceedings in the same  
10 manner as land is condemned for railroad purposes. School district  
11 funds may be used to erect buildings on leased land on which other  
12 buildings have been erected prior to April 3, 1969, or on land which  
13 is leased from a governmental entity;

14 10. Lease real or personal property to the state or any  
15 political subdivision thereof or a not-for-profit entity operating  
16 pursuant to Section 868 of Title 18 of the Oklahoma Statutes for  
17 nominal cash consideration for so long as the use of the property by  
18 the lessee substantially benefits, in whole or in part, the same  
19 public served by the school district;

20 11. Dispose of personal or real property no longer needed by  
21 the district by sale, exchange, lease, lease-purchase, sale and  
22 partial lease back, or otherwise. Real property shall be conveyed  
23 pursuant to a public sale, public bid, or private sale; provided,  
24 however, unless otherwise prohibited by law, the board of education

1 of a consolidated or annexed school district or any other school  
2 district may convey real property to a local political subdivision  
3 or to an educational institution within The Oklahoma State System of  
4 Higher Education or to a housing authority formed pursuant to the  
5 provisions of Section 1057 of Title 63 of the Oklahoma Statutes  
6 without consideration. Prior to the sale of any real property, the  
7 board of education shall have the real property appraised. The  
8 appraisal shall be confidential until the real property is sold.  
9 When the real property is sold, the board of education shall make  
10 the appraisal available for public inspection. Prior to the  
11 conveyance of any real property by private sale, the board of  
12 education shall have offered the real property for sale by public  
13 sale or public bid. Any conveyance of real property by private sale  
14 to a nonprofit organization, association, or corporation to be used  
15 for public purposes, unless for exchange, shall contain a  
16 reversionary clause which returns the real property to the board of  
17 education upon the cessation of the use without profit or for public  
18 purposes by the purchaser or the assigns of the purchaser;

19 12. Purchase necessary property, equipment, furniture, and  
20 supplies necessary to maintain and operate an adequate school  
21 system;

22 13. Incur all expenses, within the limitations provided for by  
23 law, necessary to perform all powers granted by the provisions of  
24 this section;

1       14. Contract with and fix the duties and compensation of  
2 physicians, dentists, optometrists, nurses, attorneys,  
3 superintendents, principals, teachers, bus drivers, janitors, and  
4 other necessary employees of the district;

5       15. Establish a written policy for reimbursement of necessary  
6 travel expenses of employees and members of the board. The policy  
7 may include in-district travel from the site of employment  
8 assignment which is necessary in the performance of employment  
9 duties. The written policy shall specify procedures, contain  
10 documentation requirements, and may include payment of meal expenses  
11 during authorized travel on a per diem allowance basis rather than  
12 itemized documentation;

13       16. Pay necessary travel expenses and other related expenses of  
14 prospective employees for sponsored visits to the school district  
15 pursuant to a written policy specifying procedures containing  
16 documentation requirements equal to or greater than the requirements  
17 specified by law for state employees in the State Travel  
18 Reimbursement Act;

19       17. Provide for employees' leaves of absence without pay;

20       18. Exercise sole control over all the schools and property of  
21 the district, subject to other provisions of the Oklahoma School  
22 Code;

23       19. Allow district-owned school buses to be used for  
24 transportation of students from other districts or educational

1 institutions while within the district on educational tours. This  
2 shall not restrict the authority of the board to authorize any other  
3 use of such buses which may now be permitted by law or rule of the  
4 State Board of Education;

5 20. Enter into contractual agreements with the board of  
6 trustees of a multicounty library system, as defined in Section 4-  
7 103 of Title 65 of the Oklahoma Statutes, a city-county library  
8 commission, as defined in Section 152 of Title 65 of the Oklahoma  
9 Statutes, or a rural single county library system, as defined in  
10 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as  
11 may be mutually agreed, except no district board of education may  
12 enter into any agreement under which the library services for the  
13 school would be provided at any site other than the school site or  
14 which would result in library services that do not meet  
15 accreditation standards as required by law or rule;

16 21. Perform all functions necessary to the administration of a  
17 school district in Oklahoma as specified in the Oklahoma School  
18 Code, and in addition thereto, those powers necessarily implied but  
19 not delegated by law to any other agency or official;

20 22. Prepare and distribute at the expense of the school  
21 district any and all material which has the purpose of informing the  
22 public about district activities;

23 23. Solicit and accept any gift, grant, or donation of money or  
24 property for the use of the school district. Any gift, grant, or

1 donation of money may be deposited in the general fund or building  
2 fund of the school district; and

3 24. Pay necessary meal and lodging expenses of school district  
4 students and sponsors involved in authorized school-sponsored  
5 cocurricular activities. The board of education shall establish a  
6 written policy for reimbursement of necessary meal and lodging  
7 expenses of school district students and sponsors. The written  
8 policy shall specify procedures, contain documentation requirements,  
9 and designate the funds from which reimbursement may be made.  
10 Reimbursement may be made from the General Fund.

11 B. The board of education of any school district may rent real  
12 and personal property, if such items are necessary for the operation  
13 of the school, and pay the rental charges for the usage during any  
14 fiscal year, or portion thereof, out of appropriations made and  
15 approved for current expense purposes during the fiscal year. Any  
16 rental contract extending beyond June 30 of the fiscal year shall be  
17 void unless it contains provisions for mutual ratification of  
18 renewal pursuant to the conditions provided for in this subsection.  
19 It is the intent of this subsection to authorize boards of education  
20 to enter into lease contracts but not to incur any obligation  
21 against the school district in excess of the income and revenue  
22 provided for such purposes for the fiscal year in which the lease  
23 contract is operative. Any lease or lease-purchase agreement  
24 entered into by any board of education shall state the purchase



1 price of real or personal property so leased. The lease or lease-  
2 purchase shall not be extended so as to cause payment of more than  
3 the original purchase price of the real or personal property, plus  
4 interest not to exceed the legal rate. When the purchase price plus  
5 interest has been paid, the property shall belong to the lessee and  
6 the lessor shall deliver a deed or bill of sale to the property to  
7 the lessee. When any real or personal property has been leased or  
8 rented during any fiscal year pursuant to the provisions of any  
9 contract which permits continuance of the rental for the remainder  
10 of the fiscal year, the renting or leasing of the property shall be  
11 continued for the remainder of the fiscal year unless the board of  
12 education renting or leasing the same certifies by proper resolution  
13 entered in the minutes of the board of education that the  
14 continuance of the rental is unnecessary and contrary to the public  
15 interest. Any lease-purchase agreement entered into shall include  
16 the right of a school district to acquire buildings, equipment or  
17 other facilities or discrete components thereof or improve school  
18 sites through a lease-purchase agreement. A school district may use  
19 proceeds derived from the sale of bonds as authorized by Section 26  
20 of Article X of the Oklahoma Constitution to make lease-purchase  
21 payments, including interest, under a lease-purchase agreement. For  
22 purposes of this subsection, the term "acquired" as used in Section  
23 26 of Article X of the Oklahoma Constitution shall mean the

24

1 possession, control, or power to dispose of personal or real  
2 property.

3 C. The boards of education of two or more school districts may  
4 enter into cooperative agreements and maintain joint programs  
5 including, but not limited to, courses of instruction for  
6 handicapped children, courses of instruction in music and other  
7 subjects, practical instruction for trades and vocations, practical  
8 instruction in driver training courses, and health programs  
9 including visual care by persons legally licensed for such purpose,  
10 without favoritism as to either profession. The revenues necessary  
11 to operate a joint program approved in cooperative agreements,  
12 whether from federal, state or local sources, including the  
13 individual contributions of participating school districts, shall be  
14 deposited into a fund separate from all other appropriated funds.  
15 The beginning fund balance each year, combined with all actual  
16 revenues, including collected and estimated revenues, must be  
17 appropriated before being expended. Purchase orders shall be issued  
18 against available appropriations and, once goods or services have  
19 been received, either payable or nonpayable warrants shall be issued  
20 in payment of all purchase orders. The fund shall be reported as a  
21 separate appropriated fund in all the financial reports of the  
22 school district which is chosen by the other school districts to  
23 keep the accounting records of the joint program.

24

1 D. The boards of education of two or more school districts may  
2 enter into a mutual contract or separate contracts with a  
3 superintendent, administrator, or teacher or with a person to  
4 provide support services, to serve as superintendent, administrator,  
5 or teacher, as appropriately qualified, or to provide support  
6 services, for each contracting district upon such terms and  
7 conditions as the parties may agree. Nothing in this act shall be  
8 construed to authorize or require annexation or consolidation of any  
9 school districts or the closing of any school site except pursuant  
10 to law as set forth in Section 7-101 et seq. of this title.

11 E. Any school district may operate or maintain a school or  
12 schools on any military reservation which is within the boundaries  
13 of the school district or which is adjacent to the school district,  
14 and provide the instruction in the school or schools to children of  
15 personnel on the military reservation and, in doing so, shall  
16 conform to all federal laws and requirements.

17 F. The board of education of each school district shall adopt  
18 and maintain on file in the office of the superintendent of schools  
19 appropriate personnel policy and sick leave guide. The guide shall  
20 be made available to the public.

21 G. The board of education of any school district with an  
22 average daily membership of thirty thousand (30,000) or more and all  
23 or part of which school district is located in a county having more  
24 than five hundred thousand (500,000) population according to the

1 latest Federal Decennial Census may contract with a public or  
2 private nonsectarian entity for that entity to provide educational  
3 and administrative services for the school district. The  
4 educational services provided by a contracting entity may include  
5 but are not limited to the delivery of instructional service in core  
6 and noncore academic subjects to the students enrolled in the school  
7 district at one or more school sites or parts of sites within the  
8 district pursuant to the terms of an educational services contract.  
9 All educational service providers and their employees and  
10 representatives and all educational and administrative services  
11 provided under an educational services contract shall be exempt from  
12 all statutes and rules relating to schools, boards of education and  
13 school districts to the same extent that a charter school is exempt  
14 under the Oklahoma Charter Schools Act. For all purposes, including  
15 but not limited to attendance, funding from all sources and  
16 accountability, all students who are provided services by a  
17 contracting entity pursuant to an educational services contract  
18 shall at all times be and remain students of the school district.

19 SECTION 5. This act shall become effective November 1, 2021.  
20  
21  
22  
23  
24

1 Passed the Senate the 8th day of March, 2021.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2021.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives