

1 **SENATE FLOOR VERSION**

2 February 18, 2021

3 **AS AMENDED**

4 SENATE BILL NO. 738

5 By: Montgomery

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 1. 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 2. 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~~7~~ or otherwise. Real property shall be conveyed
23 pursuant to a public sale, public bid~~7~~ or private sale; provided,1
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

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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.

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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 3. This act shall become effective November 1, 2021.

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
21 February 18, 2021 - DO PASS AS AMENDED
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