

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3235

By: Crosswhite Hader

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 2021, Section 13A-110, which relates to vacancies on school boards; requiring vacancies be filled by election; amending 70 O.S. 2021, Section 5-107A, which relates to vacancies; requiring Governor make appointment for certain vacancies; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2021, Section 13A-110, is amended to read as follows:

Section 13A-110. A. Except as provided for in subsection ~~F~~ B of this section, vacancies for members of the board of education of every school district or technology center school district shall be filled ~~by appointment by the board~~ at the next succeeding election.

B. ~~Except as provided for in subsection D of this section, persons appointed to fill such vacancies in the first half of the term of office for the board position shall serve only until the next succeeding election, at which time the office which they hold shall be placed on the ballot for the balance of the unexpired term.~~

1 ~~Vacancies filled by appointment following the delivery of the~~  
2 ~~resolution calling for regular elections to the secretary of the~~  
3 ~~county election board shall be filled until the regular elections~~  
4 ~~the following year. Persons elected to fill unexpired terms shall~~  
5 ~~begin those terms at the next regular meeting of the board of~~  
6 ~~education following the election. Persons appointed to fill such~~  
7 ~~vacancies after the first half of the term of office for the board~~  
8 ~~position shall serve for the balance of the unexpired term.~~

9 ~~C. Except as provided for in subsection D of this section, no~~  
10 ~~person shall be appointed to a board of education who does not meet~~  
11 ~~the eligibility qualifications needed to be a candidate for such~~  
12 ~~position as provided for in Section 13A-106 of this title and~~  
13 ~~Sections 5-110, 5-110.1 and 5-113 of Title 70 of the Oklahoma~~  
14 ~~Statutes.~~

15 ~~D. If after the filing period is closed no candidate for an~~  
16 ~~open position on a board of education of a school district has filed~~  
17 ~~and therefore a vacancy is created, the vacancy shall be filled by~~  
18 ~~appointment by the board. Persons appointed to fill such vacancies~~  
19 ~~shall not be required to reside in the board or election district~~  
20 ~~but shall be required to reside in the school district and to meet~~  
21 ~~the other eligibility qualifications needed to be a candidate for~~  
22 ~~the position as provided for in Section 13A-106 of this title and~~  
23 ~~Sections 5-110, 5-110.1 and 5-113 of Title 70 of the Oklahoma~~  
24 ~~Statutes. Persons appointed to fill vacancies as provided for in~~

1 ~~this subsection shall be eligible to serve only for the balance of~~  
2 ~~the term.~~

3 ~~E. If the board of education does not fill the vacancy by~~  
4 ~~appointment within sixty (60) days of the date the board declared~~  
5 ~~the seat vacant, the board of education shall call a special~~  
6 ~~election to fill the vacancy for the unexpired term. The special~~  
7 ~~election shall be called on a date established by subsection B of~~  
8 ~~Section 3-101 of this title, and the special filing period shall be~~  
9 ~~scheduled as required in subsection D of Section 13A-109 of this~~  
10 ~~title.~~

11 ~~F.~~ If vacancies occur which result in a loss of a majority of  
12 members of the board of education of a school district or technology  
13 center school district, the Governor shall appoint a member or  
14 members necessary to constitute a quorum to the board of education  
15 pursuant to the authority granted by Section 13 of Article VI of the  
16 Oklahoma Constitution. Such appointment shall be consistent with  
17 the requirements of this section and shall only be for the remainder  
18 of the term of office.

19 SECTION 2. AMENDATORY 70 O.S. 2021, Section 5-107A, is  
20 amended to read as follows:

21 Section 5-107A. The following provisions and the provisions of  
22 Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes shall  
23 govern the election of members of the board of education for a  
24 school district:

1 A. For purposes of this section, temporary positions added to a  
 2 board of education pursuant to Section 7-101 or 7-105 of this title  
 3 and the chair of the board of education elected pursuant to Section  
 4 ~~4~~ 5-107B of this ~~act~~ title shall not be considered in determining  
 5 the size of the board. The number and term of each board of  
 6 education shall be as follows:

District	Members	Term (Years)
Elementary	3	3
Independent		
1. Districts having a five-member		
board	5	5
2. Districts having a seven-		
member board unless an		
election is conducted		
pursuant to subsection C of		
this section	7	4

17 B. In all school districts, the members of the board of  
 18 education shall be elected as follows:

19 1. a. Between August 1 and December 31 of the year following  
 20 the submission by the United States Department of  
 21 Commerce to the President of the United States of the  
 22 official Federal Decennial Census, the board of  
 23 education shall reapportion the territory of the  
 24 school district into board districts. Beginning with

1 the reapportionment following the 1990 Federal  
2 Decennial Census, all boundaries of board districts  
3 shall follow clearly visible, definable and observable  
4 physical boundaries which are based upon criteria  
5 established and recognized by the Bureau of the Census  
6 of the United States Department of Commerce for  
7 purposes of defining census blocks for its decennial  
8 census and shall follow, as much as is possible,  
9 precinct boundaries. Board districts shall be  
10 compact, contiguous and shall be as equal in  
11 population as practical with not more than a ten-  
12 percent ~~(10%)~~ variance between the most populous and  
13 least populous board districts.

14 b. School districts having fewer than one thousand eight  
15 hundred (1,800) students in average daily membership  
16 during the preceding school year may choose not to  
17 establish board districts and may nominate and elect  
18 all board members at large.

19 c. Elementary school districts shall have board members  
20 elected at large.

21 d. A city located in an independent school district  
22 having four or more wards and an outlying area with  
23 such outlying area comprising no more than twenty  
24 percent (20%) of the population of such independent

1 school district, then such independent school district  
2 may adopt such wards and outlying area in lieu of the  
3 board districts provided for in subparagraph a of this  
4 paragraph, and at least one member of the board of  
5 education of such independent school district shall be  
6 a member of each ward; and

7 2. One member of the board of education shall be elected by the  
8 electors of the school district to represent each ~~such~~ board  
9 district. Provided, however, that in any school district where the  
10 electors of each board district, rather than the electors of the  
11 entire school district, elect board members to represent that board  
12 district, that district shall elect board members in that manner.

13 If during the term of office to which a person was elected, that  
14 member ceases to be a resident of the board district for which the  
15 person was elected, the office shall become vacant and such vacancy  
16 shall be filled as provided in Section 13A-110 of Title 26 of the  
17 Oklahoma Statutes; and

18 3. In a school district having more than ten thousand (10,000)  
19 children in average daily membership, the following provision and  
20 the provisions of Section 13A-101 et seq. of Title 26 of the  
21 Oklahoma Statutes shall control as to election of the members of the  
22 school district's board of education:

23 a. There shall be held an election in which the electors  
24 of each board district in which a term is expiring or

1 in which a vacancy exists shall select two candidates  
2 from among the candidates for board member to  
3 represent the board district,

4 b. If, in the election, one candidate has a majority of  
5 all votes cast, then a run-off election is not  
6 required. If no candidate receives a majority of all  
7 votes cast, then the two candidates receiving the  
8 greatest number of votes shall become the candidates  
9 for the board district in the general election, and

10 c. At the run-off election, all of the electors of the  
11 board district shall select one of the two candidates  
12 as the member of the board of education representing  
13 the board district.

14 C. Any seven-member board shall have the option of reducing its  
15 board to a five-member board either after approval of a board  
16 resolution or a vote of the electors of the school district to take  
17 such action pursuant to Section 13A-109 of Title 26 of the Oklahoma  
18 Statutes. The election pursuant to a vote of the electors of the  
19 school district shall be called upon the submission of a petition  
20 requesting the election signed by ten percent (10%) of the school  
21 district electors in the school district, the percentage being  
22 applied to the highest number of voters voting in a regular school  
23 district election in the district in the preceding five (5) years as  
24 determined by the secretary of the county election board, who shall

1 certify the adequacy of the number of signatures on the petition.  
2 If the question is put before the voters of the district, such  
3 election shall be held along with and at the same time and place as  
4 the next school election if all requirements of Section 13A-101 et  
5 seq. of Title 26 of the Oklahoma Statutes for such election are met.

6 After such resolution or election, the board shall reapportion  
7 the district, determining by resolution or by lot which board member  
8 offices shall be abolished at the end of the current board member's  
9 term and which shall become one of the offices of the new board.

10 Election of the resulting board members shall be carried out  
11 according to procedures stated in this section and Section 13A-101  
12 et seq. of Title 26 of the Oklahoma Statutes.

13 School board members currently serving in offices abolished  
14 pursuant to this subsection shall continue serving until the end of  
15 their current terms as at-large members.

16 D. Except for the chair of the board of education elected  
17 pursuant to Section ~~4~~ 5-107B of this ~~act~~ title, offices of members  
18 of the board of education shall be designated by consecutive numbers  
19 and shall correspond with board districts when applicable.

20 E. Except for those members elected prior to July 1, 1992, the  
21 terms of office of the members of a five-member board of education  
22 shall commence on the first regular, special or emergency school  
23 board meeting after the date of the annual school election and after  
24 the member has been certified as elected:



1	Office No. 1	1991
2	Office No. 2	1992
3	Office No. 3	1993
4	Office No. 4	1994
5	Office No. 5	1995

6 The terms of office of the members of a seven-member board of  
7 education shall be staggered, with one member being elected in 1991,  
8 two members being elected in 1992, two members being elected in 1993  
9 and two members being elected in 1994 and shall commence on the  
10 first regular, special or emergency school board meeting after the  
11 date of the annual school election and after the member has been  
12 certified as elected; provided, in districts needing to elect two  
13 members in 1991 to maintain a full complement of board members, two  
14 members shall be elected in 1991, one for a full term and one for a  
15 one-year term, as determined by the local board. If a seven-member  
16 board is formed upon consolidation pursuant to Section 7-105 of this  
17 title, or upon annexation pursuant to Section 7-101 of this title,  
18 the formation agreement shall specify initial short terms as  
19 necessary to extend until the beginning of the regular terms for  
20 seven-member boards established herein.

21 Upon reduction of a seven-member board pursuant to subsection C  
22 of this section, the terms of the five-member board shall be  
23 staggered pursuant to this subsection.

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1 One member of a three-member board of education shall be elected  
2 each year, and the terms of office shall commence on the first  
3 regular, special or emergency school board meeting after the member  
4 has been certified as elected.

5 F. The term of office of each board member elected after July  
6 1, 1992, shall commence on the first regular, special or emergency  
7 school board meeting after the date of the annual school election  
8 and after the member has been certified as elected. Board members  
9 elected prior to July 1, 1992, may remain in office until their  
10 successor is elected and seated pursuant to Sections 13A-101 through  
11 13A-111 of Title 26 of the Oklahoma Statutes. The remaining term of  
12 any member who completes the term for which the member was elected  
13 but not wishing to serve until the successor of the member takes  
14 office on the first regular, special or emergency school board  
15 meeting after the successor has been certified as elected, shall be  
16 filled by appointment by the ~~remaining members of the board of~~  
17 ~~education~~ Governor.

18 SECTION 3. This act shall become effective November 1, 2022.

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