

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2845

By: Kiesel

4  
5 AS INTRODUCED

6  
7 An Act relating to elections; providing for  
8 allocation of Presidential electors based on popular  
9 vote; providing procedures; providing for certain  
10 determinations by the Secretary of State; providing  
11 jurisdiction for adjudication of certain contests;  
12 defining terms; repealing 26 O.S. 2001, Sections 10-  
13 101, 10-101.1, 10-101.2, 10-102, 10-103, 10-104, 10-  
14 105, 10-106, 10-107, 10-108 and 10-109, which relate  
15 to Presidential electors; providing for codification;  
16 and declaring an emergency.

17  
18  
19  
20  
21  
22  
23  
24  
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 10-110 of Title 26, unless there  
is created a duplication in numbering, reads as follows:

A. The total number of electoral votes to which Oklahoma is  
entitled shall be divided among the Presidential tickets on the  
General Election ballot, based upon the popular proportional share  
of the total statewide ballots cast for each Presidential ticket,  
subject to subsections B and C of this section. Each Presidential  
elector shall vote for the Presidential candidate and, by separate  
ballot, Vice Presidential candidate on the Presidential ticket of

1 the political party or political organization that nominated that  
2 Presidential elector.

3 B. The allocation of a Presidential ticket's popular proportion  
4 of this state's electoral votes shall be in whole numbers and shall  
5 be made in the following manner:

6 1. The total number of ballots cast in this state for each  
7 Presidential ticket at a General Election shall be divided by the  
8 total number of ballots cast for all Presidential tickets that  
9 receive votes at that General Election; and

10 2. The proportion of a Presidential ticket's popular vote, as  
11 determined in paragraph 1 of this subsection, shall be multiplied by  
12 the number of electoral votes to which Oklahoma is entitled.

13 C. The number of electoral votes that is attributable to the  
14 ballots cast for any Presidential ticket, as determined in  
15 subsection B of this section, shall be rounded to the nearest whole  
16 number, subject to the following limitations:

17 1. No Presidential ticket shall receive any electoral votes  
18 from this state if its proportion of the total ballots cast for all  
19 Presidential tickets would reflect less than a full electoral vote  
20 after rounding to the nearest whole number;

21 2. If the sum of electoral votes allocated pursuant to  
22 paragraph 1 of this subsection is greater than the number of  
23 electoral votes to which Oklahoma is entitled:

24

1 a. the allocation of electoral votes to the Presidential  
2 ticket receiving at least one electoral vote and the  
3 fewest number of ballots cast shall be reduced by  
4 whole electoral votes until only that number of  
5 electoral votes to which Oklahoma is entitled have  
6 been allocated, and

7 b. the process set forth in subparagraph a of this  
8 paragraph shall be repeated if, after the reduction of  
9 electoral votes as set forth in subparagraph a of this  
10 paragraph, the total number of electoral votes  
11 allocated to all Presidential tickets remains greater  
12 than the total number of electoral votes to which this  
13 state is entitled, and such process shall be applied  
14 to the Presidential ticket receiving at least one  
15 electoral vote and the next fewest number of ballots  
16 cast until the total number of electoral votes  
17 allocated to all Presidential tickets is equal to the  
18 total number of electoral votes to which this state is  
19 entitled;

20 3. If the sum of all electoral votes allocated would be less  
21 than the number of electoral votes to which Oklahoma is entitled,  
22 the Presidential ticket receiving the greatest number of ballots  
23 cast shall receive any unallocated electoral votes until all of the  
24

1 electoral votes to which Oklahoma is entitled have been allocated;  
2 and

3 4. If two or more Presidential tickets receive the identical  
4 total number of ballots cast for all Presidential tickets and the  
5 allocation of electoral votes to which Oklahoma is entitled cannot  
6 be proportionally allocated in whole electoral votes to these  
7 Presidential tickets, the Secretary of State shall determine by lot  
8 which of these Presidential tickets will have their number of  
9 electoral votes increased or decreased by a whole electoral vote  
10 until all of the electoral votes to which Oklahoma is entitled have  
11 been allocated.

12 D. The Secretary of State shall determine by lot which  
13 Presidential electors, nominated in conjunction with a Presidential  
14 ticket that qualifies for at least one electoral vote pursuant to  
15 this section, shall be entitled to cast electoral votes. For each  
16 Presidential ticket, the Secretary of State shall then determine by  
17 lot the order of nominated Presidential electors for that  
18 Presidential ticket to serve as alternates if any vacancies occur in  
19 the office of Presidential elector for that Presidential ticket  
20 because of death, refusal to act, absence or other cause. Such  
21 determinations by lot performed by the Secretary of State shall be  
22 made before 3:00 p.m. of the twenty-fourth day following the  
23 election if no recount is ordered or requested and before 3:00 p.m.  
24 of the thirty-first day following such election if a recount is

1 ordered or requested. If the number of nominated Presidential  
2 electors for a Presidential ticket is insufficient to allow the  
3 Secretary of State to fill a vacancy in the office of Presidential  
4 elector by lot, the political party or political organization of the  
5 Presidential ticket for which the vacancy remains shall nominate the  
6 number of additional Presidential electors necessary to fill the  
7 vacancy. The Secretary of State shall prepare a certificate of  
8 election for each Presidential elector entitled to cast an electoral  
9 vote. The Governor shall sign and affix the seal of the state to  
10 the certificates and deliver one certificate to each elector on the  
11 first Monday after the second Wednesday of December following a  
12 General Election.

13 E. The Supreme Court shall have original jurisdiction for the  
14 adjudication of all contests concerning Presidential electors and  
15 shall prescribe rules for practice and proceedings for such  
16 contests. Contests concerning the election of Presidential electors  
17 shall be given the highest priority on the Court's calendar and  
18 shall be expedited in all respects, including hearing and decision.  
19 The Court shall render its final decision in any contest concerning  
20 Presidential electors not later than the first Friday after the  
21 second Wednesday of December following a General Election. No  
22 Justice of the Court who is a contestor in the election contest  
23 shall be permitted to hear and determine the matter.

24 F. For purposes of this section:

1        1. "Presidential ticket" means candidates for President and  
2 Vice President of the United States who run for their respective  
3 offices jointly in Oklahoma;

4        2. "Rounded to the nearest whole number" means:

5            a. increased to the next whole number if the fractional  
6            proportion of an electoral vote allocated is equal to  
7            or greater than one-half (1/2), and

8            b. decreased to the preceding whole number if the  
9            fractional proportion of an electoral vote allocated  
10           is less than one-half (1/2); and

11        3. "Whole number" means a positive integer, including zero.

12        SECTION 2.        REPEALER        26 O.S. 2001, Sections 10-101, 10-  
13 101.1, 10-101.2, 10-102, 10-103, 10-104, 10-105, 10-106, 10-107, 10-  
14 108 and 10-109, are hereby repealed.

15        SECTION 13. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19

20        51-2-8820        LRB        12/31/07

21

22

23

24