

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

2ND CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1593

By: Pope of the House

and

Rabon of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; requiring state employees to be in compliance with state income tax laws; providing procedures related thereto; amending 68 O.S. 2001, Sections 1365, as amended by Section 2, Chapter 503, O.S.L. 2002, and 1405, as amended by Section 9, Chapter 458, O.S.L. 2002 (68 O.S. Supp. 2002, Sections 1365 and 1405), which relate to sales and use taxes; modifying dates by which sales and use taxes must be remitted and reported; providing exception; directing the Tax Commission to include a line on income tax return for use tax remittance; providing for modification in determination made by Department of Commerce; prescribing conditions for determination; providing for computation of incentive payments; imposing limitation on claims for incentives; amending 74 O.S. 2001, Section 85.5, as last amended by Section 7 of Enrolled House Bill No. 1329 of the 1st Session of the 49th Oklahoma Legislature, which relates to the Oklahoma Central Purchasing Act; requiring verification that certain business entities have obtained a sales tax permit; providing for codification; providing an effective date; and declaring an emergency.

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 238.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that the provisions of this section operate to provide for the collection of income taxes due to the State of Oklahoma by state employees in a manner that will maximize flexibility for state employees to pay any such taxes

due while minimizing disruption to operations of state agencies. It is the further intent of the Legislature that the Oklahoma Tax Commission provide notice to state employees pursuant to the provisions of subsection C of this section.

B. The Office of State Finance shall, not later than August 1, 2003, and August 1 of each year thereafter, provide to the Tax Commission a list of all state employees as of the preceding July 1 and such identifying information as may be required by the Tax Commission. Such list and information shall be used by the Tax Commission exclusively for the purpose of collection of income taxes due to the State of Oklahoma. The provisions of any laws making information confidential shall not apply with respect to information supplied to the Tax Commission pursuant to the provisions of this section; provided, such information shall be subject to the provisions of Section 205 of Title 68 of the Oklahoma Statutes.

C. The Tax Commission shall, not later than November 1, 2003, and November 1 of each year thereafter, notify any state employee who is not in compliance with the income tax laws of this state. Such notification shall include:

1. A statement that the employee will be subject to disciplinary action by the appointing authority unless the taxpayer is deemed by the Tax Commission to be in compliance with the income tax laws of this state;

2. The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due or a list of the tax years for which income tax returns have not been filed as required by law;

3. An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and

4. Such other information as may be deemed necessary by the Tax Commission.

D. A state employee who has entered into and is abiding by a payment agreement, or who has requested relief as an innocent spouse which is pending or has been granted, shall be deemed to be in compliance with the state income tax laws for purposes of this section.

E. If the Tax Commission notifies a state employee who is not in compliance with the income tax laws of this state as required in this section and such state employee does not respond to such notification or fails to come into compliance with the income tax laws of this state after an assessment has been made final or after the Tax Commission determines that every reasonable effort has been made to assist the state employee to come into compliance with the income tax laws of this state, the Tax Commission, notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes, shall so notify the appointing authority, which shall commence disciplinary action with respect to the state employee and shall notify the state employee of the reason for such action; provided, if a state agency receives notification with respect to a state employee who has been subject to disciplinary action pursuant to the provisions of this section two or more times in the previous three (3) calendar years, such employee shall be terminated by the state agency according to the procedures provided by law. If a state employee who has been previously reported by the Tax Commission to a state agency as being out of compliance comes into compliance, the Tax Commission shall immediately notify the appointing authority. Neither a state agency nor an appointing authority shall be held liable for any action with respect to a state employee pursuant to the provisions of this section.

F. The Tax Commission shall promulgate rules for the implementation of the provisions of this section.

G. As used in this section:

1. "State agency" means any office, department, board, commission or institution of the executive, legislative or judicial branch of state government;

2. "Employee" or "state employee" means an appointed officer or employee of a state agency; provided, the term employee or state employee shall not include an elected official or an employee of a local governmental entity; and

3. "Appointing authority" means the chief administrative officer of a state agency.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1365, as amended by Section 2, Chapter 503, O.S.L. 2002 (68 O.S. Supp. 2002, Section 1365), is amended to read as follows:

Section 1365. When Tax Due - Reports - Records.

A. The tax levied hereunder shall be due and payable on the first day of each month, except as herein provided, by any person liable to remit or pay any tax due under Section 1350 et seq. of this title. For the purpose of ascertaining the amount of the tax payable, it shall be the duty of all tax remitters, on or before the fifteenth day of each month, to deliver to the Oklahoma Tax Commission, upon forms prescribed and furnished by it, sales tax reports signed under oath, showing the gross receipts or gross proceeds arising from all sales taxable or nontaxable under Section 1350 et seq. of this title during the preceding calendar month. Such reports shall show such further information as the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request and the taxpayer must furnish any information deemed necessary for a correct computation of the tax levied herein. Such tax remitter shall compute and remit to the Tax Commission the required tax due for the preceding calendar month, the remittance or remittances of the tax to

accompany the reports herein required. If not filed on or before the fifteenth of such month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. Effective July 1, 2001, every person owing an average of One Hundred Thousand Dollars (\$100,000.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

C. Effective March 1, 2002, every person owing an average of Twenty-five Thousand Dollars (\$25,000.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes due on sales made during the periods of June 1 through June 15, 2002, which shall be remitted and reported on June

20, 2002, and June 1 through June 15, 2003, which shall be remitted and reported on June 20, 2003.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

D. Effective October 1, 2003, every person owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and

report as required in subsection A of this section, with the exception of taxes due on sales made during the periods of June 1 through June 15, 2004, which shall be remitted and reported on June 20, 2004, and June 1 through June 15, 2005, which shall be remitted and reported on June 20, 2005.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

E. In lieu of monthly reports, tax remitters or taxpayers who are classified as Group Three vendors in Section 1350 et seq. of this title or tax remitters or taxpayers whose total amount of tax liability for any one month does not exceed Fifty Dollars (\$50.00) may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the fifteenth day of January and July of each year for the preceding six-month period. If not paid on or before the fifteenth day of such month, the tax shall be delinquent.

~~E.~~ F. It shall be the duty of every tax remitter required to make a sales tax report and pay any tax under Section 1350 et seq. of this title to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sale and other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records of goods, wares and merchandise, and other subjects of taxation under Section 1350 et seq. of this title as will substantiate and prove the accuracy of such returns. It shall also be the duty of every person who makes sales for resale to keep records of such sales which shall be subject to examination by the Tax Commission or any authorized employee thereof while engaged in checking or auditing the records of any person required to make a report under the terms of Section 1350 et seq. of this title. All such records shall remain in Oklahoma and be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date, and

shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the person who made the sale.

~~F.~~ G. The purchaser must provide the vendor with the purchaser's sales tax permit number, the direct payment permit number or a copy of the direct payment permit if the sale is made within Oklahoma. In addition to furnishing the sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that the purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Tax Commission may cause the purchaser's sales tax permit to be canceled. Certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller which contains the following:

1. The name and address of the purchaser;
2. The sales tax permit number of the permit issued to the purchaser;
3. A statement that the purchaser is engaged in the business of reselling the articles purchased, if applicable;
4. A statement that the articles purchased are purchased for resale, if applicable; and
5. The signature of the purchaser or a person authorized to legally bind the purchaser.

~~G.~~ H. If a sales tax permit holder purchases goods, wares and merchandise from a vendor on a regular basis, then the permit holder may furnish the certification letter described in subsection ~~F~~ G of this section to the vendor and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring a certification letter or certification statement for each

subsequent sale. The permit holder must notify the seller of all purchases which are not for resale and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not intended for resale, then sufficient grounds shall exist for the Tax Commission to cancel the sales tax permit of the permit holder who so failed to notify the vendor.

~~H.~~ I. In lieu of filing reports on the fifteenth day of each month as required in subsection A of this section, tax remitters or taxpayers who agree to participate in the Tax Commission's electronic funds transfer and electronic data interchange programs may file according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 1405, as amended by Section 9, Chapter 458, O.S.L. 2002 (68 O.S. Supp. 2002, Section 1405), is amended to read as follows:

Section 1405. A. The tax levied by Section 1401 et seq. of this title is due and payable on the first day of each month for the preceding calendar month, and if not paid on or before the fifteenth day of each month shall thereafter be delinquent. Each taxpayer subject to the provisions of this article shall, on or before the fifteenth day of every calendar month, file with the Oklahoma Tax Commission on forms to be furnished by the Tax Commission, a return verified by affidavit showing in detail the total purchase price of tangible personal property used by the taxpayer within the state during the preceding calendar month subject to the tax herein levied and such other information as the Tax Commission may require. With each such return each taxpayer shall remit to the Tax Commission the amount of tax shown therein to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. In lieu of monthly reports, tax remitters whose total amount of tax liability for any one (1) month does not exceed Fifty Dollars (\$50.00) may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the fifteenth day of January and July of each year for the preceding six-month period. If not paid on or before the fifteenth day of such month, the tax shall be delinquent.

C. Effective March 1, 2003, every person owing an average of Twenty-five Thousand Dollars (\$25,000.00) or more per month in total use taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For taxes levied from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For taxes levied from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly use tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the ~~sales occurred~~ tax is levied. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes levied during the periods of June 1 through June 15, 2003, which shall be remitted and reported on June 20, 2003, and June 1 through June 15, 2004, which shall be remitted and reported on June 20, 2004.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

D. Effective October 1, 2003, every person owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in total use taxes in the previous fiscal year shall remit the tax due

and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For taxes levied from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For taxes levied from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly use tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the tax is levied. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes levied during the periods of June 1 through June 15, 2004, which shall be remitted and reported on June 20, 2004, and June 1 through June 15, 2005, which shall be remitted and reported on June 20, 2005.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2368.8 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to raise awareness of liabilities for use taxes levied in Section 1401 et seq. of Title 68 of the Oklahoma Statutes for purchases of tangible personal property made outside this state to be consumed within this state, and to increase compliance with such provisions of law, the Oklahoma Tax Commission is hereby directed to include a line for the remittance of use tax on individual income tax returns for tax years beginning on or after July 1, 2003.

B. The Tax Commission shall include the following information in the income tax form instructions:

1. An explanation of an individual's obligation to pay use tax on items purchased from mail order, Internet, or other sellers that do not collect state and local sales and use taxes on the items; and

2. A method to help an individual determine the amount of use tax the individual owes. The method may include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.

C. The revenues derived pursuant to the provisions of this section shall be apportioned by the Tax Commission as follows:

1. Sixty-five percent (65%) shall be apportioned according to the provisions of Section 1403 of Title 68 of the Oklahoma Statutes; and

2. Thirty-five percent (35%) shall be apportioned to each municipality and county that levies a use tax, in the proportions which total municipal and county use tax revenue was apportioned by the Tax Commission in the preceding month.

D. No penalties or interest shall be applied with respect to any taxes remitted pursuant to the provisions of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3612 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For purposes of the determination required to be made by the Department of Commerce pursuant to paragraph 2 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, the Department of Commerce shall include jobs created by an establishment as a result of a retained, expanded or new facility if:

1. The establishment and jobs are defined or classified under Industry Number 326211 of the NAICS Manual;

2. The jobs were not created by the establishment more than fourteen (14) calendar quarters prior to the date of approval of the application by the Department of Commerce; and

3. The establishment's application has been approved by the Department of Commerce prior to March 30, 1997.

B. For the purpose of calculating incentive payments as provided by Section 3606 of Title 68 of the Oklahoma Statutes, the Oklahoma Tax Commission shall include payroll for those jobs which meet the requirements of subsection A of this section regardless of whether such jobs fall within the definition of a new direct job; provided, an establishment shall in no event be entitled to such incentive payments on payroll for those jobs which meet the requirements of subsection A of this section made prior to the effective date of this act. No claims may be made for such payroll prior to July 1, 2004.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 85.5, as last amended by Section 7 of Enrolled House Bill No. 1329 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 85.5 A. Pursuant to the provisions of Section 85.4 of this title, the State Purchasing Director, under the supervision of the Director of the Department of Central Services, shall have sole

and exclusive authority and responsibility for all acquisitions used or consumed by state agencies.

B. The State Purchasing Director, after consultation with the requisitioning state agency, shall have authority to determine the particular brand, model, or other specific classification of each acquisition and to draft or invoke pursuant to the Oklahoma Central Purchasing Act specifications establishing the requirements for all necessary contracts or purchase orders.

C. The Director of the Department of Central Services shall have authority and responsibility to promulgate rules pursuant to provisions of the Oklahoma Central Purchasing Act governing, providing for, prescribing, or authorizing any act, practice, or requirement for which regulatory power is delegated for:

1. The time, manner, authentication, and form of making requisitions for acquisitions;

2. Inspection, analysis, and testing of acquisitions or samples suppliers submit prior to contract award;

3. The form and manner of submission for bids or proposals a supplier submits and the manner of accepting and opening bids or proposals;

4. The conditions under which the Department of Central Services shall require written contracts for acquisitions, the conditions under which acquisitions may be made on an open account basis, and the conditions and manner of negotiating such contracts;

5. Obtaining acquisitions produced by state institutions;

6. Conditions under which any of the rules herein authorized may be waived;

7. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of acquisitions and the conditions under which such bond shall be required;

8. Storage and storage facilities necessary to accomplish responsibilities of the Director of the Department of Central Services;

9. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport acquisitions whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any acquisitions;

10. The form of any estimate, order, or other document the Director of the Department of Central Services requires;

11. State agency acquisitions not exceeding the acquisition purchase amount requiring competitive bid pursuant to Section 85.7 of this title to ensure competitiveness, fairness, compliance with provisions of all sections of the Oklahoma Central Purchasing Act, and compliance with provisions of Section 3001 et seq. of this title, which relate to the State Use Committee. The rules shall include separate provisions based on acquisition purchase price as follows:

- a. state agencies shall make acquisitions not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), provided the acquisition process is fair and reasonable and is conducted pursuant to rules authorized pursuant to this section, and
- b. state agencies with certified procurement officers and internal purchasing procedures found compliant by the Director of the Department of Central Services pursuant to this section may make acquisitions in excess of Two Thousand Five Hundred Dollars (\$2,500.00) as provided below:
  - (1) acquisitions with a price exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not

exceeding Ten Thousand Dollars (\$10,000.00),  
pursuant to rules authorized by this section, and  
(2) acquisitions with a price exceeding Ten Thousand  
Dollars (\$10,000.00) and not exceeding the amount  
requiring a requisition to the State Purchasing  
Director, pursuant to Section 85.7 of this title,  
by telephone, facsimile, invitation to bid, or  
solicitation by means of electronic commerce,  
receipt of bids and bid award by the state  
agency;

12. Training by the State Purchasing Director of state agency  
procurement officers;

13. Review and audit by the State Purchasing Director of state  
agency acquisitions;

14. The conditions for increasing acquisition limits for state  
agencies which have had a prior reduction in acquisition limit by  
the Director of the Department of Central Services;

15. State agency use of a state purchase card to make  
acquisitions; and

16. Any other matter or practice which relates to the  
responsibilities of the Director of the Department of Central  
Services.

D. The State Purchasing Director shall provide training for  
state agency purchasing officials and other purchasing staff. The  
training shall include principles of state procurement practices,  
basic contracting, provisions of the Oklahoma Central Purchasing  
Act, rules promulgated pursuant to the Oklahoma Central Purchasing  
Act, provisions of Section 3001 et seq. of this title, which relate  
to the State Use Committee, and any other matters related to state  
procurement practices. State agency purchasing officials that  
demonstrate proficiency shall be certified as "certified procurement  
officers" by the State Purchasing Director and shall be authorized

to make acquisitions pursuant to provisions of the Oklahoma Central Purchasing Act and rules authorized by this section. The State Purchasing Director shall assess a fee to state agencies for the training that does not exceed each state agency's pro rata share of the costs the State Purchasing Director incurs to provide the training.

E. The State Purchasing Director shall review state agency acquisitions for the purposes of:

1. Ensuring state agency compliance with provisions of the Oklahoma Central Purchasing Act;

2. Ensuring state agency compliance with rules promulgated by the Department of Central Services pursuant to the Oklahoma Central Purchasing Act;

3. Ensuring state agency compliance with provisions of Section 3001 et seq. of this title pertaining to the State Use Committee;

4. Reporting any acquisition by any state agency found not to be in compliance with those sections or rules to the Director of the Department of Central Services; and

5. Recommending that the Director of the Department of Central Services reduce the acquisition competitive bid limit amount for any state agency found not to be in compliance with the Oklahoma Central Purchasing Act or rules promulgated thereto.

F. When recommended by the State Purchasing Director, based on written findings by the State Purchasing Director, the Director of the Department of Central Services may:

1. Require retraining of state agency procurement officials and other purchasing staff found not to be in compliance with provisions of the Oklahoma Central Purchasing Act, or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

2. Reduce the acquisition competitive bid limit for any state agency found not to be in compliance with provisions of the Oklahoma

Central Purchasing Act or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

3. Transmit written findings by the State Purchasing Director to the State Auditor and Inspector for further investigation, indicating purchasing procedures that do not conform to provisions pursuant to the Oklahoma Central Purchasing Act or rules promulgated pursuant to the Oklahoma Central Purchasing Act;

4. Transmit to the Attorney General or the State Auditor and Inspector for further investigation a report made by the State Purchasing Director that the Director of the Department of Central Services reasonably believes indicates that an action that constitutes a criminal violation pursuant to the Oklahoma Central Purchasing Act or other laws has been taken by any state agency, state agency official, bidder, or supplier; or

5. Increase the state agency acquisition purchase amount requiring competitive bid, not to exceed the acquisition purchase amount requiring competitive bid, pursuant to Section 85.7 of this title.

G. Pursuant to the requirements of the Oklahoma Central Purchasing Act, the State Purchasing Director shall have authority to enter into any statewide, multistate or multigovernmental contract.

H. The State Purchasing Director may develop and test new contracting policies and procedures that hold potential for making the Purchasing Division more effective and efficient.

I. The State Purchasing Director shall endeavor to satisfy state agencies in terms of cost, quality, and timeliness of the delivery of acquisitions by using bidders who have a record of successful past performance, promoting competition, minimizing administrative operating costs, and conducting business with integrity, fairness, and openness.

J. The State Purchasing Director shall undertake the following:

1. The use of electronic commerce pursuant to the Oklahoma Online Bidding Act for solicitation, notification, and other purchasing processes;

2. Monitoring rules promulgated pursuant to the Oklahoma Central Purchasing Act to ensure that the rules satisfy the interests of the state, are clear and succinct, and encourage efficiency in purchasing processes;

3. A program to identify vendors with poor delivery and performance records;

4. Development of criteria for the use of sealed bid contracting procedures, negotiated contracting procedures, selection of types of contracts, postaward administration of purchase orders and contracts, contract modifications, termination of contracts, and contract pricing;

5. Continual improvement in the quality of the performance of the Purchasing Division through training programs, management seminars, development of benchmarks and key management indicators, and development of standard provisions, clauses and forms;

6. Development of electronic means of making state agencies aware of office furniture, equipment, machinery, tools, and hardware available for purchase from the surplus property programs; and

7. Development of programs to improve customer relations through training, improved communications, and appointment of technical representatives.

K. The State Purchasing Director shall, in cooperation with the Oklahoma State Department of Agriculture, identify the needs of state agencies and institutions for agricultural products grown and produced in Oklahoma.

L. The State Purchasing Director may authorize state agencies to utilize a state purchase card for acquisitions not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) per transaction.

M. The State Purchasing Director may utilize and authorize state agencies to utilize reverse auctions to obtain acquisitions.

N. As a condition of awarding a contract pursuant to the Oklahoma Central Purchasing Act, the State Purchasing Director shall verify with the Oklahoma Tax Commission that the business entity to which the state contract is to be awarded, whether subject to the procedures required by Section 85.7 of this title or not, has obtained a sales tax permit pursuant to the provisions of Section 1364 of Title 68 of the Oklahoma Statutes if such entity is required to do so.

SECTION 7. This act shall become effective July 1, 2003.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-1-7119          ARE          05/30/03