

FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1911  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the printed Bill  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: \_\_\_\_\_

Amendment submitted by: Randy Terrill \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 1911

By: Wilson and Mazzei of the  
Senate

6 and

7 Terrill of the House

8 FLOOR SUBSTITUTE

9 An Act relating to revenue and taxation;  
10 establishing the Voluntary Compliance Initiative;  
11 abating penalties under certain circumstances;  
12 listing eligible taxes; providing penalty for  
13 noncompliance; providing for promulgation of certain  
14 rules; authorizing certain actions by Oklahoma Tax  
15 Commission; amending 74 O.S. 2001, Section 85.7, as  
16 last amended by Section 2, Chapter 309, O.S.L. 2004  
17 (74 O.S. Supp. 2007, Section 85.7), which relates to  
18 competitive bid procedures; adding exception;  
19 providing for codification; and declaring an  
20 emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 216.3 of Title 68, unless there  
24 is created a duplication in numbering, reads as follows:

A. For the purpose of encouraging the voluntary disclosure and  
payment of taxes owed to this state, the Oklahoma Tax Commission is  
hereby authorized and directed to establish a Voluntary Compliance

1 Initiative for eligible taxes, as provided in this section. A  
2 taxpayer shall be entitled to a waiver of penalty, interest and  
3 other collection fees due on eligible taxes if the taxpayer  
4 voluntarily files delinquent tax returns and pays the taxes due  
5 during the compliance initiative. The time in which a voluntary  
6 payment of tax liability may be made or the taxpayer may enter into  
7 a payment program acceptable to the Tax Commission for the payment  
8 of the unpaid taxes in full in the manner and time established in a  
9 written payment program agreement between the Tax Commission and the  
10 taxpayer under the Voluntary Compliance Initiative is limited to the  
11 period beginning on September 15, 2008, and ending November 14,  
12 2008.

13 B. Upon payment of the eligible taxes under the compliance  
14 initiative established, the Tax Commission shall abate and not seek  
15 to collect any interest, penalties, collection fees, or costs that  
16 would otherwise be applicable and release any liens imposed.

17 C. As used in this section an "eligible taxes" shall include the  
18 following taxes that were due and payable for any tax period or  
19 periods ending before January 1, 2008:

20 1. Gasoline and diesel taxes levied pursuant to Section 500.4  
21 of Title 68 of the Oklahoma Statutes;

22 2. Franchise tax levied pursuant to Section 1203 or 1204 of  
23 Title 68 of the Oklahoma Statutes;

24

1           3. Gross Production and petroleum excise taxes levied pursuant  
2 to Sections 1001, 1101 and 1102 of Title 68 of the Oklahoma  
3 Statutes;

4           4. Privilege taxes levied pursuant to Section 2370 of Title 68  
5 of the Oklahoma Statutes;

6           5. Income tax levied pursuant to Section 2355 of Title 68 of  
7 the Oklahoma Statutes;

8           6. Withholding taxes levied pursuant to subsection C of  
9 Section 2355 and Sections 2385 through 2385.32 of Title 68 of the  
10 Oklahoma Statutes;

11           7. Sales taxes levied pursuant to Sections 1354 of Title 68 of  
12 the Oklahoma Statutes;

13           8. Use tax levied pursuant to Section 1402 of Title 68 of the  
14 Oklahoma Statutes; and

15           9. Mixed Beverage taxes levied pursuant to Section 576 of Title  
16 37 of the Oklahoma Statutes.

17           D. If any eligible tax, or any part thereof, is not paid before  
18 the end of the Voluntary Compliance Initiative established under  
19 this section or in conformity with a written payment agreement  
20 entered into during the Voluntary Compliance Initiative between the  
21 Tax Commission and the taxpayer for payment of the unpaid eligible  
22 taxes, a penalty equal to the amount of delinquent penalty imposed  
23 by the applicable section for nonpayment of the tax shall be added  
24 thereto, collected and paid. However, the Tax Commission shall not

1 collect the penalty assessed in this section if the individual or  
2 entity from which the tax liability is due was not eligible to  
3 participate in the compliance initiative or the taxpayer has timely  
4 filed a protest of an assessment pursuant to Section 221 of Title 68  
5 of the Oklahoma Statutes or is otherwise a contested matter before a  
6 court of competent jurisdiction.

7 E. The Tax Commission shall promulgate rules detailing the  
8 terms and other conditions of this program.

9 F. The Tax Commission is authorized to expend necessary  
10 available funds, including contracting with third parties, to  
11 publicly advertise, assist in the collection of eligible taxes, and  
12 administer the Voluntary Compliance Initiative and shall be exempt  
13 from the provisions of Section 85.7 of Title 74 of the Oklahoma  
14 Statutes for the purpose of implementing this section.

15 SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.7, as  
16 last amended by Section 2, Chapter 309, O.S.L. 2004 (74 O.S. Supp.  
17 2007, Section 85.7), is amended to read as follows:

18 Section 85.7. A. 1. Except as otherwise provided by the  
19 Oklahoma Central Purchasing Act or section 1 of this act, no state  
20 agency shall make an acquisition for an amount exceeding Twenty-five  
21 Thousand Dollars (\$25,000.00) without submission of a requisition to  
22 the State Purchasing Director and submission of suppliers'  
23 competitive bids or proposals to the State Purchasing Director.

24

1           2. Any acquisition a state agency makes shall be made pursuant  
2 to the Oklahoma Central Purchasing Act and rules promulgated  
3 pursuant thereto.

4           a. Split purchasing for the purpose of evading the  
5 requirement of competitive bidding shall be a felony.

6           b. The State Purchasing Director may waive or increase  
7 the limit of Twenty-five Thousand Dollars (\$25,000.00)  
8 for a state agency acquisition by not more than ten  
9 percent (10%) to perfect an otherwise valid  
10 acquisition inadvertently exceeding the limit due to  
11 administrative error by the state agency or  
12 unforeseeable circumstances. The state agency shall  
13 request a waiver upon the discovery of the error or  
14 circumstance to the State Purchasing Director on a  
15 form the Director requires.

16           c. The State Purchasing Director shall report all  
17 requests for waivers or increases, stating the amount  
18 and whether the request was granted or denied, monthly  
19 to the Governor, President Pro Tempore of the Senate,  
20 and Speaker of the House of Representatives.

21           3. a. Contracts for master custodian banks or trust  
22 companies, investment managers, investment  
23 consultants, and actuaries for the state retirement  
24 systems, CompSource Oklahoma, State and Education

1 Employees Group Insurance Board, pension fund  
2 management consultants of the Oklahoma State Pension  
3 Commission and the Commissioners of the Land Office,  
4 and other professional services as defined in Section  
5 803 of Title 18 of the Oklahoma Statutes shall be  
6 exempt from competitive bidding procedures of Section  
7 85.4 of this title.

8 b. Contracts with financial institutions to act as  
9 depositories and managers of the Oklahoma College  
10 Savings Plan accounts shall be exempt from competitive  
11 bidding procedures.

12 c. A state agency that makes an acquisition pursuant to  
13 this paragraph shall notify the State Purchasing  
14 Director within fifteen (15) days following completion  
15 of the acquisition. The Department of Central  
16 Services shall compile a list of the exempt contracts  
17 and send the list to a member of the Appropriations  
18 and Budget Committee of the House of Representatives  
19 or Appropriations Committee of the Senate, if the  
20 member requests.

21 4. Requisitions pursuant to this section shall not be required  
22 prior to emergency acquisitions by a state agency not exceeding  
23 Thirty-five Thousand Dollars (\$35,000.00). The state agency shall  
24 submit a requisition to the State Purchasing Director within five

1 (5) days following the acquisition together with a statement of the  
2 emergency. The State Purchasing Director shall send the requisition  
3 and a written analysis to the Governor, the President Pro Tempore of  
4 the Senate, and the Speaker of the House of Representatives  
5 specifying the facts and circumstances giving rise to the emergency  
6 requisition.

7 5. Requisitions pursuant to this section for acquisitions to  
8 alleviate a serious environmental emergency shall not be required  
9 if, upon receiving a request from the Chair of the Corporation  
10 Commission and after having examined the facts and circumstances of  
11 the case, the Governor certifies in writing the existence of a  
12 serious environmental emergency. For the purposes of this section,  
13 "serious environmental emergency" means a situation within the  
14 jurisdiction of the Commission:

- 15 a. in which serious damage to the environment will  
16 quickly occur if immediate action is not taken and the  
17 damage will be so significant that the urgent need for  
18 action outweighs the need for competitive bids, or  
19 b. a situation in which human life or safety is in  
20 imminent danger or significant property interests are  
21 threatened with imminent destruction.

22 6. Acquisitions for repairs of equipment in emergencies, of  
23 livestock through a market agency, dealer, commission house, or  
24 livestock auction market bonded or licensed under federal or state

1 law, the purchase or collection of semen or embryos, and the  
2 placement of embryos into recipient livestock shall not require  
3 requisitions pursuant to this section or any other provisions of the  
4 Oklahoma Central Purchasing Act.

5 7. The Board of Directors of the Oklahoma Historical Society  
6 shall select suppliers for the restoration of historical sites and  
7 museums and shall not be subject to the requisition requirements of  
8 this section or any other provision of the Oklahoma Central  
9 Purchasing Act. The Board may send a requisition to the State  
10 Purchasing Director and request supplier bid or proposal submission  
11 procedures, but supplier and bid selection will be the prerogative  
12 of the Board and will be based on contractors' documented  
13 qualifications and experience.

14 8. Purchases of postage by state agencies shall be made  
15 pursuant to Sections 90.1 through 90.4 of this title.

16 9. Sole source or sole brand acquisitions by a state agency or  
17 the State Purchasing Director shall comply with Section 85.45j of  
18 this title.

19 10. Acquisitions for the design, development, communication, or  
20 implementation of the state employees flexible benefits plan shall  
21 not be subject to the requirements of this section; provided, that  
22 the Flexible Benefits Advisory Council shall use procedures  
23 consistent with the competitive bid requirements of the Oklahoma  
24 Central Purchasing Act.

- 1 11. a. Any acquisition of a service which the Department of  
2 Central Services has approved as qualifying for a  
3 fixed and uniform rate shall be made pursuant to  
4 provisions of this paragraph.
- 5 b. The Department of Central Services shall establish  
6 criteria and guidelines for those services which may  
7 qualify for a fixed and uniform rate.
- 8 c. Fixed and uniform rate contracts authorized by this  
9 paragraph shall be limited to contracts for those  
10 services furnished to persons directly benefiting from  
11 such services and shall not be used by a state agency  
12 to employ consultants or to make other acquisitions.
- 13 d. Any state agency desiring to have a service qualified  
14 for a fixed and uniform rate shall make a request for  
15 service qualification to the Department of Central  
16 Services and submit documentation to support the  
17 request. The Department of Central Services shall  
18 approve or deny the request. If the Department of  
19 Central Services approves the request, the state  
20 agency shall establish a fixed and uniform rate for  
21 the service. No contracts shall be entered into by  
22 the state agency until the rate has been approved by  
23 the state agency in a public hearing. The proposed  
24 rate shall be clearly and separately identified in the

1 agenda of the state agency for the hearing and shall  
2 be openly and separately discussed during such  
3 hearing. The state agency shall notify the Director  
4 of the Department of Central Services of its pending  
5 consideration of the proposed rate at least thirty  
6 (30) days before the state agency is to meet on the  
7 proposed rate. The state agency shall deliver to the  
8 Director of the Department of Central Services a copy  
9 of the agenda items concerning the proposed rate with  
10 supporting documentation. The Director of the  
11 Department of Central Services shall communicate any  
12 observation, reservation, criticism, or recommendation  
13 to the agency, either in person at the time of the  
14 hearing or in writing delivered to the state agency  
15 before or at the time of the hearing. The Director of  
16 the Department of Central Services shall specifically  
17 note in the written communications whether the  
18 Director of the Department of Central Services has  
19 determined the rate to be excessive. Any written  
20 communication presented in the absence of the Director  
21 of the Department of Central Services shall be  
22 presented orally during the public hearing. Whether  
23 made in person or in writing, any comment made by the  
24

1 Director of the Department of Central Services shall  
2 be made a part of the minutes of the hearing in full.

3 e. Within two (2) weeks after the convening of the  
4 Legislature, the administrative officer of the state  
5 agency shall furnish to the Speaker of the House of  
6 Representatives, the President Pro Tempore of the  
7 Senate and to any member of the House or Senate, if  
8 requested by the member, a complete list of all of the  
9 types of services paid for by uniform fixed rates, the  
10 amount of the rate last approved by the agency for the  
11 service, and the number of contracts then in existence  
12 for each type of service. Any rate which has been  
13 determined to be excessive by the Director of the  
14 Department of Central Services shall be specifically  
15 identified in the list by the state agency.

16 f. At any time, the Director of the Department of Central  
17 Services may review, suspend, or terminate a contract  
18 entered into pursuant to the provisions of this  
19 paragraph if the Director of the Department of Central  
20 Services determines the contract is not necessary, is  
21 excessive, or is not justified.

22 12. Specifically prescribed nonmedical adaptive technology-  
23 related acquisitions for individuals with disabilities who are  
24 clients of the State Department of Rehabilitation Services and which

1 are prescribed by a physician, rehabilitation engineer, qualified  
2 rehabilitation technician, speech therapist, speech pathologist,  
3 occupational therapist, physical therapist, or qualified sensory  
4 aids specialist, and other client acquisitions, shall not be subject  
5 to the requisition requirements of this section. The Commission for  
6 Rehabilitation Services shall develop standards for the purchase of  
7 such acquisitions and may elect to utilize the Purchasing Division  
8 for an acquisition. The standards shall foster economy, provide a  
9 short response time, include appropriate safeguards, require written  
10 records, ensure appropriate competition for economical and efficient  
11 purchasing, and shall be approved by the State Purchasing Director.

12 13. The Department of Human Services shall develop procedures  
13 for acquisitions of specifically prescribed nonmedical assistive  
14 technology-related items not exceeding the acquisition purchase  
15 amount requiring a requisition pursuant to this section for  
16 individuals under sixteen (16) years of age who are recipients of  
17 Supplemental Security Income which are prescribed by a physician,  
18 qualified sensory aids specialist or qualified special education  
19 instructor. The procedures shall reflect standards for the  
20 acquisition of such nonmedical assistive technology-related items,  
21 may provide for utilization of the Purchasing Division when  
22 appropriate, shall foster economy, provide a short response time,  
23 shall include appropriate safeguards and written records to ensure

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1 appropriate competition and economical and efficient purchasing, and  
2 shall be approved by the State Purchasing Director.

3 14. a. Structured settlement agreements entered into by the  
4 Attorney General's office in order to settle any  
5 lawsuit involving the state, the Legislature, any  
6 state agency or any employee or official of the state  
7 shall not be subject to the competitive bidding  
8 requirements of this section if:

9 (1) prior to entering into any contract for the  
10 services of an entity to administer a structured  
11 settlement agreement, the Attorney General  
12 receives proposals from at least three entities  
13 engaged in providing such services, and

14 (2) the selection of a particular entity is made on  
15 the basis of the response to the request which is  
16 the most economical and provides the most  
17 competent service which furthers the best  
18 interests of the state.

19 b. A list of any such structured settlement agreements  
20 entered into by the Attorney General with summary  
21 thereon for the previous calendar year shall be  
22 submitted to the Speaker of the House of  
23 Representatives and the President Pro Tempore of the  
24 Senate on January 31 of each year.

1        15. Acquisitions a state agency makes pursuant to a contract  
2 the State Purchasing Director enters into or awards and designates  
3 for use by state agencies shall be exempt from competitive bidding  
4 procedures.

5        16. The Commission on Marginally Producing Oil and Gas Wells  
6 shall be exempt from the competitive bid requirements of this  
7 section for contracts with local vendors for the purpose of holding  
8 special events and exhibitions throughout the state.

9        17. Agreements entered into by any state agency with the United  
10 States Army Corps of Engineers in order to provide emergency  
11 response or to protect the public health, safety, or welfare shall  
12 not require requisitions and shall not be subject to competitive  
13 bidding requirements of this section.

14        B. Acquisitions shall be awarded to the lowest and best, or  
15 best value, bidder at a specified time and place, which shall be  
16 open to the public.

17        C. Bids for professional service contracts for an amount  
18 requiring submission of requisitions to the State Purchasing  
19 Director shall be evaluated by the State Purchasing Director and the  
20 state agency contracting for such service. Both cost and technical  
21 expertise shall be considered in determining the lowest and best, or  
22 best value, bid. Further, the state agency shall present its  
23 evaluation and recommendation to the State Purchasing Director. A  
24 documented evaluation report containing the evaluations of the State

1 Purchasing Director and the state agency contracting for such  
2 service shall be completed prior to the awarding of a professional  
3 service contract and such report shall be a matter of public record.

4 D. When requested by CompSource Oklahoma, the State and  
5 Education Employees Group Insurance Board, or the governing board of  
6 a state retirement system authorized to hire investment managers,  
7 the Department of Central Services shall assist the requesting body  
8 in the process of selecting investment managers. When requested by  
9 the Flexible Benefits Advisory Council, the Department of Central  
10 Services shall assist the Council in the process of selecting  
11 contracts for the design, development, communication, or  
12 implementation of the state employees flexible benefits plan.

13 E. Except as otherwise specifically provided by law, the  
14 acquisition of food items or food products by a state agency from a  
15 public trust created pursuant to Sections 176 through 180.56 of  
16 Title 60 of the Oklahoma Statutes shall comply with competitive  
17 bidding procedures pursuant to the provisions of this section.

18 SECTION 3. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

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23 51-2-11215 CJB 04/22/08

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