An Act

ENROLLED HOUSE
BILL NO. 3050

By: Murphey of the House

and

Griffin of the Senate

An Act relating to state government; amending Section 2, Chapter 209, O.S.L. 2013 (74 O.S. Supp. 2013, Section 61.8), which relates to the Long-Range Capital Planning Commission; restricting certain in-kind transfers involving real property; authorizing Long-Range Capital Planning Commission to order reversal of transactions; prescribing procedures; modifying exceptions to act; providing procedures related to underutilized properties; prescribing procedures related to liquidation; amending 74 O.S. 2011, Sections 99, as amended by Section 800, Chapter 304, O.S.L. 2012, and as renumbered by Section 22, Chapter 209, O.S.L. 2013, 126.1, as amended by Section 814, Chapter 304, O.S.L. 2012, and as renumbered by Section 34, Chapter 209, O.S.L. 2013, 126.2, as amended by Section 5, Chapter 209, O.S.L. 2013, and as renumbered by Section 35, Chapter 209, O.S.L. 2013, 128.2, as last amended by Section 6, Chapter 209, O.S.L. 2013, and as renumbered by Section 37, Chapter 209, O.S.L. 2013, 128.3, as amended by Section 817, Chapter 304, O.S.L. 2012, and as renumbered by Section 38, Chapter 209, O.S.L. 2013, 129.4, as last amended by Section 7, Chapter 209, O.S.L. 2013, and as renumbered by Section 39, Chapter 209, O.S.L. 2013, 129.6, as amended by Section 820, Chapter 304, O.S.L. 2012, and as renumbered by Section 42, Chapter 209, O.S.L. 2013, and 129.7, as amended by Section 4, Chapter 344, O.S.L. 2012, and as renumbered by Section 43, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Sections 310, 322, 323, 325, 326, 327, 330 and 331), which relate to procedures related to sale and lease of real property owned by the State of Oklahoma; modifying

statutory references; providing certain exemptions; modifying procedures related to disposition of certain real property; imposing certain notice requirements; authorizing Office of Management and Enterprise Services to dismiss certain appraisals from consideration; repealing 74 O.S. 2011, Section 129.8, as amended by Section 821, Chapter 304, O.S.L. 2012, and as renumbered by Section 44, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 332), which relates to transfer of certain real property; and providing an effective date.

SUBJECT: State property

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

SECTION 1. AMENDATORY Section 2, Chapter 209, O.S.L. 2013 (74 O.S. Supp. 2013, Section 61.8), is amended to read as follows:

Section 61.8 A. The Long-Range Capital Planning Commission shall work to decrease the amount of property owned by Oklahoma state government, return state-owned property to private sector ownership, better maintain and utilize the state's needed capital assets and, whenever possible, eliminate the practice of state agencies leasing real property not owned by the state.

B. Each year, the Director of the Office of Management and Enterprise Services at the direction of the Long-Range Capital Planning Commission, shall take action to approve the privatization of state-owned real property as identified pursuant to the Oklahoma State Government Asset Reduction and Cost Savings Program. Proceeds from the liquidation of real properties shall be deposited into the Maintenance of State Buildings Revolving Fund.

C. Prior to entering into or renewing a lease for real property, each state agency, board, commission, and public trust having the State of Oklahoma as a beneficiary shall receive approval for entering into the lease from the Office of Management and Enterprise Services.

D. Prior to making a purchase of real property or constructing a building, each state agency, board, commission, and public trust having the State of Oklahoma as a beneficiary shall receive approval for the purchase or construction from the Director of the Office of Management and Enterprise Services; provided, if such purchase or construction is deemed by the Director of the Office of Management and Enterprise Services to be within the authority of the Long-Range Capital Planning Commission, the Director shall not approve the purchase or construction and shall refer the request to the Commission for action.

E. Prior to approval or referral pursuant to subsection C or D of this section, the Office of Management and Enterprise Services shall determine if the applicant entity can utilize already existing state-owned real property as an alternative to leasing non-state-owned real property or purchasing or constructing new real property.

F. No state agency, board, commission or public trust having the state as its beneficiary shall transfer any real property owned by the agency, board, commission or trust to any other state agency, board, commission, state beneficiary trust or any public or private entity unless the transfer is first approved by the Long-Range Capital Planning Commission. Any transfer made without the prior approval of the Long-Range Capital Planning Commission as required by this subsection may be reversed by the Long-Range Capital Planning Commission and if a transfer is reversed the agency, board, commission, state beneficiary trust or other state government entity to which the real property has been impermissibly transferred shall take such actions to convey the subject property to the entity from which the asset was acquired not later than thirty (30) days from the date an order for such transfer is entered by the Long-Range Capital Planning Commission. The Commission shall not approve any transfer unless proceeds from the sale shall be deposited within the Maintenance of State Buildings Revolving Fund as established by Section 908 of Title 62 of the Oklahoma Statutes.

G. By February 1 of each year, the Office of Management and Enterprise Services shall publish a report for the preceding calendar year listing the parcels of previously state-owned property sold, detailing the reduction in the amount of space leased by the state, describing the source of funds and expenditures from the Maintenance of State Buildings Revolving Fund and showing the manner in which deferred maintenance needs are being met. The report shall be provided to the Governor, Speaker of the House of

Representatives, President Pro Tempore of the Senate and placed on the *documents.ok.gov* web portal.

~~G.~~ H. This section shall not be applicable to the following or their lands, properties, buildings, funds or revenue:

1. The Oklahoma Ordnance Works Authority; ~~and~~

2. The Commissioners of the Land Office;

3. The Oklahoma Department of Transportation; and

4. The Oklahoma Turnpike Authority.

I. The Director of the Office of Management and Enterprise Services may make recommendations to the Long-Range Capital Planning Commission for liquidation of underutilized properties that have environmental issues, create a liability for the state, or create expenses that make the continued ownership of the underutilized property undesirable and the property has been offered through two public auctions or sealed bids and no viable bids were received. If the Long-Range Capital Planning Commission approves the liquidation of the property, the Office of Management and Enterprise Services may accept a bid of less than ninety percent (90%) of the appraised value in accordance with Section 327 of Title 61 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 99, as amended by Section 800, Chapter 304, O.S.L. 2012, and as renumbered by Section 22, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 310), is amended to read as follows:

Section 310. The Office of Management and Enterprise Services is hereby authorized and empowered to advertise, sell, and execute an oil and gas lease or leases upon the following described state-owned lands constituting a portion of the State Capitol grounds:

Beginning at a point One Hundred Fifty-two and Seventy-seven One-hundredths (152.77) feet east of the Southwest Corner of the Northeast One-quarter (NE 1/4) of Section Twenty-seven (27), Township Twelve (12) North, Range Three (3) West. Thence North Four (4) Degrees Thirty-one (31) Minutes East, Twelve Hundred Eight and Fifty-five One-hundredths (1,208.55) feet. Thence West Four Hundred Ninety-six (496.0) feet. Thence South Four (4) Degrees Thirty-one (31) Minutes East, Twelve Hundred Eight and Fifty-five One-

hundredths (1,208.55) feet. Thence East Three Hundred Five and Fifty-four One-hundredths (305.54) feet to the place of beginning, containing Eleven and Eight One-hundredths (11.08) acres, more or less, ~~situate~~ situated in Oklahoma County, Oklahoma.

In advertising, selling, and executing such lease or leases, such Office shall follow the provisions and requirements of Section ~~98~~ 309 of this title. The Office may provide for the consolidation of such lease or leases with a lease or leases upon other lands under such terms as such Office may determine.

SECTION 3. AMENDATORY 74 O.S. 2011, Section 126.1, as amended by Section 814, Chapter 304, O.S.L. 2012, and as renumbered by Section 34, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 322), is amended to read as follows:

Section 322. A. The Director of the Office of Management and Enterprise Services is hereby authorized to grant easements, rights-of-way, and enter into contracts authorizing the construction and maintenance of telephone, electric transmission and distribution lines, railroad lines, telegraph lines, and pipelines across any state lands under the management of said Director, and all lands set apart for the use and benefit of any state agency, department, or institution including all lands set apart for use of colleges, universities, hospitals, and eleemosynary institutions. Said easements and rights-of-way grants shall be for a period not to exceed twenty (20) years and shall provide for such considerations, terms, and conditions including privileges and conditions of renewal, as the Director of the Office of Management and Enterprise Services may determine advisable for the best interests of the state institutions in possession thereof. ~~This section and Section 126.2 of this title shall not affect the lands under the jurisdiction and control of the Commissioners of the Land Office of this state.~~

B. The Commissioners of the Land Office, the Oklahoma Ordnance Works Authority, the Midwestern Oklahoma Development Authority, the Oklahoma Department of Transportation, the Oklahoma Turnpike Authority and the Northeast Oklahoma Public Facilities Authority and their lands shall be exempt from the application of this section.

SECTION 4. AMENDATORY 74 O.S. 2011, Section 126.2, as amended by Section 5, Chapter 209, O.S.L. 2013, and as renumbered by Section 35, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 323), is amended to read as follows:

Section 323. A. The Director of the Office of Management and Enterprise Services is hereby authorized to lease for a temporary period of time the surface of any of the lands belonging to the state described in Section ~~126.1~~ 322 of this title, which are not needed or required for the proper maintenance of the institutions or departments in possession thereof.

B. Except as otherwise provided by Section 6201 of ~~this title~~ Title 74 of the Oklahoma Statutes, leases shall be for a period of time not exceeding ~~three (3)~~ five (5) years and upon such other terms and conditions as the Director may determine to be in the best interests of the state.

C. Except as otherwise provided by Section 6201 of ~~this title~~ Title 74 of the Oklahoma Statutes, leases shall provide for a termination of the lease upon reasonable notice in writing whenever the needs of the state or the institution in possession thereof requires the land.

D. The Director may also execute lease contracts for the lands to any institution or agency or department, commission, or municipal subdivision that requires the need of the land in conjunction with cooperation or participation in any city or state project authorized by law, if contracts or agreements will not interfere with or restrict in any manner, the proper use of the lands by the state institution in possession thereof.

E. The Commissioners of the Land Office, the Oklahoma Ordnance Works Authority, the Midwestern Oklahoma Development Authority, the Oklahoma Department of Transportation, the Oklahoma Turnpike Authority and the Northeast Oklahoma Public Facilities Authority and their lands shall be exempt from the application of this section.

F. Lands leased to private prison contractors pursuant to Section 561 of Title 57 of the Oklahoma Statutes shall be exempt from the application of this section.

SECTION 5. AMENDATORY 74 O.S. 2011, Section 128.2, as last amended by Section 6, Chapter 209, O.S.L. 2013, and as renumbered by Section 37, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 325), is amended to read as follows:

Section 325. The Office of Management and Enterprise Services shall make or cause to be made a full and complete inventory and appraisal of the property described in Section ~~128.1~~ 324 of this

title. ~~The~~ Except for lands owned by the Department of Transportation, the Office may offer for sale to the highest bidder at public sale all of the lots, blocks, or acreage tracts of "Capitol Building Lands" that are not used by the state and which, in the judgment of the Office, will not be required for future use by the state. The property shall be offered for sale in separate lots or tracts, for cash, to the highest bidder. The sale shall be at public auction or under sealed bids whichever the Office may determine to be most advantageous. The sale shall be advertised in a newspaper of general circulation in Oklahoma County, Oklahoma, for not less than thirty (30) days prior to the date of sale. The notice shall contain an accurate description of all the property to be sold and terms and conditions of the sale.

The lands so offered for sale shall be subject to a reservation by this state in one-half (1/2) of all the mineral rights therein. If royalties are not paid to the state from any of the above-described lots or tracts of land, the sale of such properties shall be made subject to a reservation by this state of all of the mineral rights therein under the lots or tracts. The Office of Management and Enterprise Services shall reserve the right to refuse any and all bids for the property. No sale of any portion of the land shall be confirmed at a price less than ninety percent (90%) of the appraised value. All sales shall be approved by the Governor.

SECTION 6. AMENDATORY 74 O.S. 2011, Section 128.3, as amended by Section 817, Chapter 304, O.S.L. 2012, and as renumbered by Section 38, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 326), is amended to read as follows:

Section 326. After payment of all costs incurred in the inventory and appraisal and advertisement and costs of sale, the remaining proceeds therefrom, and any monies derived from leasing the property described in Section ~~128.1~~ 324 of this title, shall be deposited in a special "Capitol Building Maintenance and Repair Fund". The fund shall be used for the maintenance and repair of all State Capitol Buildings, grounds, shrubbery, boulevards, and streets surrounding the same. The funds shall be paid upon claims made therefor by the Office of Management and Enterprise Services and approved by the Director of the Office of Management and Enterprise Services. The leasing for oil and gas purposes of any such lands and the proceeds therefrom shall be conducted and handled by the Office of Management and Enterprise Services pursuant to Section ~~107~~ 317 of this title.

SECTION 7. AMENDATORY 74 O.S. 2011, Section 129.4, as last amended by Section 7, Chapter 209, O.S.L. 2013, and as renumbered by Section 39, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 327), is amended to read as follows:

Section 327. A. Unless procedures for state agency real property transactions are otherwise specifically provided for by law, no state agency shall sell, lease, exchange, or otherwise dispose of such real property subject to its jurisdiction, or lease, purchase or otherwise acquire real property subject to its jurisdiction, except as provided for in this section. As used in this section, "state agency" means any department, board, commission, institution, agency or entity of state government.

B. 1. Every state agency shall request the Office of Management and Enterprise Services to dispose of real property upon:

a. legislative authorization,

b. authorization by the Long-Range Capital Planning Commission, or

c. a determination, in writing, by the Office of Management and Enterprise Services or the state agency that a parcel of real property subject to its jurisdiction is no longer needed.

2. Upon the request of the state agency to dispose of real property, the Office of Management and Enterprise Services shall:

a. obtain at least one complete appraisal made by a person certified by the Real Estate Appraiser Board of the Oklahoma Insurance Department, who shall ascertain:

(1) the present fair value of the property,

(2) the present value of the improvements on such property, and

(3) the actual condition of the improvements on the property,

b. cause notice of such sale to be published for at least one (1) day in a newspaper of general statewide

circulation authorized to publish legal notices, and weekly for three (3) consecutive weeks in a newspaper of general circulation published in the county or counties in which the property is located. The notice shall contain the legal description of each parcel of real property to be offered for sale, the appraised value thereof, the time and location of the sale or opening of the bids, and terms of the sale including the fact that no parcel of property shall be sold for less than ninety percent (90%) of the appraised value of the real property; provided, in lieu of such procedure, the information may be published electronically on the Office of Management and Enterprise Services' website if the notice of sale and instructions on accessing the public information are published in a newspaper of general circulation in the county or counties in which the property is located weekly for three (3) consecutive weeks, ~~and~~

c. offer the property through public auction or sealed bids within three (3) weeks after the last publication of the notice. The property shall be sold to the highest bidder. The Office of Management and Enterprise Services shall not accept a bid of less than ninety percent (90%) of the average appraised fair value of the property and the improvements on such property, and

d. if the property is being disposed of in compliance with Section 908 of Title 62 of the Oklahoma Statutes, the Office may auction the property at public or electronic auction provided proper public notice is given in compliance with this section and the property has been approved for liquidation by the Long-Range Capital Planning Commission. The Office of Management and Enterprise Services is authorized to reject all bids.

3. The cost of the appraisal required by the provisions of this section, together with other necessary expenses incurred pursuant to this section, shall be paid by the state agency for which the real property is to be sold from funds available to the state agency for such expenditure. All monies received from the sale or disposal of the property, except those monies necessary to pay the expenses incurred pursuant to this section, shall be deposited in the

Maintenance of State Buildings Revolving Fund unless otherwise provided by law.

4. The Office of Management and Enterprise Services may dismiss from consideration any appraisal found to be incomplete or flawed.

C. Unless otherwise provided by law, the Office of Management and Enterprise Services shall review and approve state agency real property transactions. A state agency shall not lease or acquire real property, or lease, dispose of or transfer state-owned real property until the Office provides notice of transaction approval to the state agency. Prior to approval, a state agency shall provide documents to the Office and provide reference to statutory or other legal authority of the state agency to lease or acquire real property, or lease, dispose of or transfer state-owned real property. If the state agency intends to lease or acquire real property, the state agency shall state the intended use of the real property. Within thirty (30) days of receipt, the Office shall provide notice of transaction approval or disapproval to the state agency.

D. The provisions of this section shall not apply to the lease of office space or real property subject to supervision of the Commissioners of the Land Office or district boards of education.

E. 1. The Office of Management and Enterprise Services shall maintain a comprehensive inventory of state-owned real property and its use excluding property of the public schools and property subject to the jurisdiction of the Commissioners of the Land Office.

2. Each state agency shall, within thirty (30) days of the closing date for lands newly acquired, provide to the Office a list of records, deeds, abstracts and other title instruments showing the description of and relating to any and all such lands or interests therein.

3. The provisions of paragraph 2 of this subsection shall apply to all lands of public trusts having a state agency as the primary beneficiary, but shall not apply to lands of municipalities, counties, school districts, or agencies thereof, or Department of Transportation rights-of-way.

4. A state agency that sells or otherwise disposes of land shall notify the Office within thirty (30) days of the disposition closing date.

F. This section shall not be construed to authorize any state agency, not otherwise authorized by law, to sell, lease, or otherwise dispose of any real property owned by the state.

G. The Office of Management and Enterprise Services may provide services to sell, transfer, trade or purchase real property for other state agencies.

H. The Director of the Office of Management and Enterprise Services shall, pursuant to the Administrative Procedures Act, promulgate rules to effect procedures necessary to the fulfillment of its responsibilities under this section.

I. The Oklahoma Ordnance Works Authority and its lands, and the Northeast Oklahoma Public Facilities Authority, the Oklahoma Department of Transportation and the Oklahoma Turnpike Authority, shall be exempt from the application of this section. The Grand River Dam Authority and its lands shall be exempt from the application of this section for any real property disposed of prior to November 1, 2006.

J. Unless otherwise provided for by law, the procedures established pursuant to this section for the sale or exchange of real estate or personal property as authorized pursuant to Sections 2222 and 2223 of ~~this title~~ Title 74 of the Oklahoma Statutes shall be followed unless the sale is to an entity of state government.

K. The Director of the Office of Management and Enterprise Services shall contract with experts, professionals or consultants as necessary to perform the duties of the Office. Selections shall be made using the qualifications-based procedures established in Section 62 of ~~Title 61 of the Oklahoma Statutes~~ this title, and the rules promulgated by the Director for the selection of construction managers and design consultants.

SECTION 8. AMENDATORY 74 O.S. 2011, Section 129.6, as amended by Section 820, Chapter 304, O.S.L. 2012, and as renumbered by Section 42, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 330), is amended to read as follows:

Section 330. The terms and conditions of the lease authorized by Section ~~129.5~~ 329 of this title shall include, but not be limited to, the following:

1. A provision that the lease terminates immediately with possession and use reverting to the Department of Human Services if the subject land is no longer used for sewage purposes;

2. A provision granting automatic renewal of the lease for thirty annual, fiscal terms, subject to the pro forma annual processing of lease renewals required by the Office of Management and Enterprise Services, with an option to renew upon mutual agreement of the parties for another twenty annual, fiscal terms;

3. A provision granting the Department permission to remove or use personal property or fixtures unrelated to sewage activities;

4. A provision as to payment to the Department of Human Services by providing in-kind services, or a specified payment of money at the option of the Department to be used for the Southern Oklahoma Resource Center of Pauls Valley;

5. A provision reserving any necessary easements or granting covenants; and

6. Such other provisions as the Department of Human Services considers just and proper.

SECTION 9. AMENDATORY 74 O.S. 2011, Section 129.7, as amended by Section 4, Chapter 344, O.S.L. 2012, and as renumbered by Section 43, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 331), is amended to read as follows:

Section 331. In addition to the land described in Section ~~129.5~~ 329 of this title, the Department of Human Services, with approval of the Director, may lease other surplus land and property at the Southern Oklahoma Resource Center of Pauls Valley to an individual or individuals or to an entity. Revenue from such lease shall be placed in a special agency clearing account to be used for the benefit of the residents of the Southern Oklahoma Resource Center of Pauls Valley.

SECTION 10. REPEALER 74 O.S. 2011, Section 129.8, as amended by Section 821, Chapter 304, O.S.L. 2012, and as renumbered by Section 44, Chapter 209, O.S.L. 2013 (61 O.S. Supp. 2013, Section 332), is hereby repealed.

SECTION 11. This act shall become effective November 1, 2014.

Passed the House of Representatives the 7th day of May, 2014.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 8th day of May, 2014, at 1:38 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 13th day of May, 2014, at 3:25 o'clock P M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 13th day of May, 2014, at 4:07 o'clock P. M.

By: Chi Benge