

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3050

 By: Murphey

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to state government; amending Section
10 2, Chapter 209, O.S.L. 2013 (74 O.S. Supp. 2013,
11 Section 61.8), which relates to the Long-Range
12 Capital Planning Commission; restricting certain in-
13 kind transfers involving real property; authorizing
14 Long-Range Capital Planning Commission to order
15 reversal of transactions; prescribing procedures;
16 providing procedures related to underutilized
17 properties; prescribing procedures related to
18 liquidation; amending 74 O.S. 2011, Sections 99, as
19 amended by Section 800, Chapter 304, O.S.L. 2012, and
20 as renumbered by Section 22, Chapter 209, O.S.L.
21 2013, 126.1, as amended by Section 814, Chapter 304,
22 O.S.L. 2012, and as renumbered by Section 34, Chapter
23 209, O.S.L. 2013, 126.2, as amended by Section 5,
24 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

1 of real property owned by the State of Oklahoma;
2 modifying statutory references; modifying procedures
3 related to disposition of certain real property;
4 imposing certain notice requirements; authorizing
5 Office of Management and Enterprise Services to
6 dismiss certain appraisals from consideration;
7 repealing 74 O.S. 2011, Section 129.8, as amended by
8 Section 821, Chapter 304, O.S.L. 2012, and as
9 renumbered by Section 44, Chapter 209, O.S.L. 2013
10 (61 O.S. Supp. 2013, Section 332), which relates to
11 transfer of certain real property; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY Section 2, Chapter 209, O.S.L.
15 2013 (74 O.S. Supp. 2013, Section 61.8), is amended to read as
16 follows:

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

23 B. Each year, the Director of the Office of Management and
24 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

1 from the liquidation of real properties shall be deposited into the
2 Maintenance of State Buildings Revolving Fund.

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

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

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

23 F. No state agency, board, commission or public trust having
24 the state as its beneficiary shall transfer any real property owned

1 by the agency, board, commission or trust to any other state agency,
2 board, commission, state beneficiary trust or any public or private
3 entity unless the transfer is first approved by the Long-Range
4 Capital Planning Commission. Any transfer made without the prior
5 approval of the Long-Range Capital Planning Commission as required
6 by this subsection may be reversed by the Long-Range Capital
7 Planning Commission and if a transfer is reversed the agency, board,
8 commission, state beneficiary trust or other state government entity
9 to which the real property has been impermissibly transferred shall
10 take such actions to convey the subject property to the entity from
11 which the asset was acquired not later than thirty (30) days from
12 the date an order for such transfer is entered by the Long-Range
13 Capital Planning Commission. The Commission shall not approve any
14 transfer unless proceeds from the sale shall be deposited within the
15 Maintenance of State Buildings Revolving Fund as established by
16 Section 908 of Title 62 of the Oklahoma Statutes.

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

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

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

5 1. The Oklahoma Ordnance Works Authority; and

6 2. The Commissioners of the Land Office.

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

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

23 Section 310. The Office of Management and Enterprise Services
24 is hereby authorized and empowered to advertise, sell, and execute

1 an oil and gas lease or leases upon the following described state-
2 owned lands constituting a portion of the State Capitol grounds:

3 Beginning at a point One Hundred Fifty-two and Seventy-seven
4 One-hundredths (152.77) feet east of the Southwest Corner of the
5 Northeast One-quarter (NE 1/4) of Section Twenty-seven (27),
6 Township Twelve (12) North, Range Three (3) West. Thence North Four
7 (4) Degrees Thirty-one (31) Minutes East, Twelve Hundred Eight and
8 Fifty-five One-hundredths (1,208.55) feet. Thence West Four Hundred
9 Ninety-six (496.0) feet. Thence South Four (4) Degrees Thirty-one
10 (31) Minutes East, Twelve Hundred Eight and Fifty-five One-
11 hundredths (1,208.55) feet. Thence East Three Hundred Five and
12 Fifty-four One-hundredths (305.54) feet to the place of beginning,
13 containing Eleven and Eight One-hundredths (11.08) acres, more or
14 less, situate in Oklahoma County, Oklahoma.

15 In advertising, selling, and executing such lease or leases,
16 such Office shall follow the provisions and requirements of Section
17 ~~98~~ 309 of this title. The Office may provide for the consolidation
18 of such lease or leases with a lease or leases upon other lands
19 under such terms as such Office may determine.

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

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

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

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

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

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

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

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

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

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

10 SECTION 5. AMENDATORY 74 O.S. 2011, Section 128.2, as
11 last amended by Section 6, Chapter 209, O.S.L. 2013, and as
12 renumbered by Section 37, Chapter 209, O.S.L. 2013 (61 O.S. Supp.
13 2013, Section 325), is amended to read as follows:

14 Section 325. The Office of Management and Enterprise Services
15 shall make or cause to be made a full and complete inventory and
16 appraisal of the property described in Section ~~128.1~~ 324 of this
17 title. The Office may offer for sale to the highest bidder at
18 public sale all of the lots, blocks, or acreage tracts of "Capitol
19 Building Lands" that are not used by the state and which, in the
20 judgment of the Office, will not be required for future use by the
21 state. The property shall be offered for sale in separate lots or
22 tracts, for cash, to the highest bidder. The sale shall be at
23 public auction or under sealed bids whichever the Office may
24 determine to be most advantageous. The sale shall be advertised in

1 a newspaper of general circulation in Oklahoma County, Oklahoma, for
2 not less than thirty (30) days prior to the date of sale. The
3 notice shall contain an accurate description of all the property to
4 be sold and terms and conditions of the sale.

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

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

19 Section 326. After payment of all costs incurred in the
20 inventory and appraisal and advertisement and costs of sale, the
21 remaining proceeds therefrom, and any monies derived from leasing
22 the property described in Section ~~128.1~~ 324 of this title, shall be
23 deposited in a special "Capitol Building Maintenance and Repair
24 Fund". The fund shall be used for the maintenance and repair of all

1 State Capitol Buildings, grounds, shrubbery, boulevards, and streets
2 surrounding the same. The funds shall be paid upon claims made
3 therefor by the Office of Management and Enterprise Services and
4 approved by the Director of the Office of Management and Enterprise
5 Services. The leasing for oil and gas purposes of any such lands
6 and the proceeds therefrom shall be conducted and handled by the
7 Office of Management and Enterprise Services pursuant to Section ~~107~~
8 317 of this title.

9 SECTION 7. AMENDATORY 74 O.S. 2011, Section 129.4, as
10 last amended by Section 7, Chapter 209, O.S.L. 2013, and as
11 renumbered by Section 39, Chapter 209, O.S.L. 2013 (61 O.S. Supp.
12 2013, Section 327), is amended to read as follows:

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

21 B. 1. Every state agency shall request the Office of
22 Management and Enterprise Services to dispose of real property upon:
23 a. legislative authorization,

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

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

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

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

13 (1) the present fair value of the property,

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

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

18 b. cause notice of such sale to be published for at least
19 one (1) day in a newspaper of general statewide
20 circulation authorized to publish legal notices, and
21 weekly for three (3) consecutive weeks in a newspaper
22 of general circulation published in the county or
23 counties in which the property is located. The notice
24 shall contain the legal description of each parcel of

1 real property to be offered for sale, the appraised
2 value thereof, the time and location of the sale or
3 opening of the bids, and terms of the sale including
4 the fact that no parcel of property shall be sold for
5 less than ninety percent (90%) of the appraised value
6 of the real property; provided, in lieu of such
7 procedure, the information may be published
8 electronically on the Office of Management and
9 Enterprise Services' website if the notice of sale and
10 instructions on accessing the public information are
11 published in a newspaper of general circulation in the
12 county or counties in which the property is located
13 weekly for three (3) consecutive weeks, ~~and~~

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

22 d. if the property is being disposed of in compliance
23 with Section 908 of Title 62, the Office may auction
24 the property at public or electronic auction provided

1 proper public notice is given in compliance with this
2 Section and the property has been approved for
3 liquidation by the Long Range Capital Planning
4 Commission. The Office of Management and Enterprise
5 Services is authorized to reject all bids.

6 3. The cost of the appraisal required by the provisions of this
7 section, together with other necessary expenses incurred pursuant to
8 this section, shall be paid by the state agency for which the real
9 property is to be sold from funds available to the state agency for
10 such expenditure. All monies received from the sale or disposal of
11 the property, except those monies necessary to pay the expenses
12 incurred pursuant to this section, shall be deposited in the
13 Maintenance of State Buildings Revolving Fund unless otherwise
14 provided by law.

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

17 C. Unless otherwise provided by law, the Office of Management
18 and Enterprise Services shall review and approve state agency real
19 property transactions. A state agency shall not lease or acquire
20 real property, or lease, dispose of or transfer state-owned real
21 property until the Office provides notice of transaction approval to
22 the state agency. Prior to approval, a state agency shall provide
23 documents to the Office and provide reference to statutory or other
24 legal authority of the state agency to lease or acquire real

1 property, or lease, dispose of or transfer state-owned real
2 property. If the state agency intends to lease or acquire real
3 property, the state agency shall state the intended use of the real
4 property. Within thirty (30) days of receipt, the Office shall
5 provide notice of transaction approval or disapproval to the state
6 agency.

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

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

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

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

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

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

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

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

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

19 J. Unless otherwise provided for by law, the procedures
20 established pursuant to this section for the sale or exchange of
21 real estate or personal property as authorized pursuant to Sections
22 2222 and 2223 of ~~this title~~ Title 74 of the Oklahoma Statutes shall
23 be followed unless the sale is to an entity of state government.

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

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

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

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

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

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

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

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

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

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

13 Section 331. In addition to the land described in Section ~~129.5~~
14 329 of this title, the Department of Human Services, with approval
15 of the Director, may lease other surplus land and property at the
16 Southern Oklahoma Resource Center of Pauls Valley to an individual
17 or individuals or to an entity. Revenue from such lease shall be
18 placed in a special agency clearing account to be used for the
19 benefit of the residents of the Southern Oklahoma Resource Center of
20 Pauls Valley.

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

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

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3 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated
4 03/03/2014 - DO PASS, As Amended.
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