ENROLLED SENATE
BILL NO. 866

BY: WILLIAMS (Don) of the SENATE

and

GRIESER of the HOUSE

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING 68 O.S. 1991, SECTIONS 2868, 2881 AND 2884, WHICH RELATE TO THE AD VALOREM TAX CODE, SECTION 3024, WHICH RELATES TO LEVIES, AND SECTIONS 5401, 5402 AND 5403, WHICH RELATE TO TAXES IN LIEU OF AD VALOREM; SPECIFYING LEGISLATIVE INTENT; MODIFYING CERTAIN METHOD OF COMPUTING AMOUNT OF TAXES DUE; MODIFYING DUTIES OF SECRETARY OF STATE BOARD OF EQUALIZATION; REQUIRING COURT OF TAX REVIEW TO CONDUCT HEARING AND RENDER DECISION WITHIN CERTAIN TIME PERIOD; REQUIRING SUPREME COURT TO GIVE PRECEDENCE TO CERTAIN APPEALS; SPECIFYING CERTAIN REQUIREMENTS WITH RESPECT TO PAYMENT OF CERTAIN TAXES UNDER PROTEST; LIMITING AMOUNT PAID UNDER PROTEST UNDER CERTAIN CIRCUMSTANCES; REQUIRING CERTAIN CASES TO BE HEARD BY CERTAIN JUDICIAL PANEL; DIRECTING AD VALOREM TASK FORCE TO ESTABLISH PILOT PROGRAM FOR CERTAIN PURPOSE; SPECIFYING CERTAIN PROVISIONS RELATING TO SUCH PROGRAM; AUTHORIZING CERTAIN CONTRACT AND SPECIFYING PROCEDURES AND DUTIES RELATING THERETO; REQUIRING AD VALOREM DIVISION OF OKLAHOMA TAX COMMISSION TO PROVIDE CERTAIN COOPERATION AND ASSISTANCE; MAKING CERTAIN EQUIPMENT AND ITEMS OF INVENTORY SUBJECT TO TAX IN LIEU OF AD VALOREM TAXES; MAKING CERTAIN EQUIPMENT SUBJECT TO AD VALOREM TAXES; MAKING

CERTAIN BUSINESS ENTITIES SUBJECT TO TAX ON CERTAIN DATE; DEFINING TERMS; MODIFYING AMOUNT ON WHICH TAX STAMP IS BASED; PROVIDING FOR NONCODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is the intent of the Legislature that the State Board of Equalization shall lower the assessment ratio applied to public service property until such time as it is within the range of ratios established by the Board to be applied to other classes of property. It is the further intent of the Legislature that the assessment ratio applied to public service property be set each year at a level which would not lower the total assessed valuation of all public service property in this state.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2868, is amended to read as follows:

Section 2868. A. As soon as practicable, and not later than October 1, the county assessor shall prepare tax rolls containing all adjustments by either the equalization board or the excise board which have been completed and provided to the assessor, and containing:

1. A list or lists in alphabetical order of all the persons and bodies corporate in whose name any personal or public service property has been assessed, with the assessed valuation thereof distinguished by separate amounts if located in more than one school district and by the number of each school district, each in a separate column opposite the name, and the total amount of the tax as to each school district location extended in another column. In city and town districts, distinction shall be made as to urban and rural locations;

2. A list or lists of all taxable lands in the county or school districts of the county, not including city or town lots, nor unplatted tracts of land inside a city or town, in numerical order, commencing with the lowest numbered section and the different subdivisions and fractional parts thereof in the lowest numbered township in the lowest numbered range in the county, and ending with the highest numbered section, township and range, with the number of the school district located in and the name of the owner in each instance, the assessed valuation of each tract, and the total amount of taxes extended in separate columns opposite each tract in the same manner as provided in the alphabetical list or lists of names; except where homestead exemptions are involved, then by distinctive valuations and amounts of tax as hereinafter provided; and

3. A list of the city or town lots in each city or town and the unplatted tracts in each city or town in the county, commencing with the lowest numbered section in the lowest numbered township in the lowest numbered range in the county and the different subdivisions and fractional parts thereof and ending with the highest numbered section, township and range, and the number of acres in each tract with the name of the owner in each instance, and the valuation and total tax extended in separate columns in the same manner as hereinbefore provided in respect to personal property and lands,

except homesteads which shall be distinguished as provided for lands. Each lot shall be separately listed, except as hereinafter provided, and the valuation and tax separately extended thereon. Where one building or one set of improvements is situated on two or more lots or parts of lots so as to preclude distinction as to the value of improvements as to each such lot or parts of lots, such lots or parts of lots shall be listed together with one valuation, and the tax extended in one amount. Unless the owner otherwise elects, vacant lots valued and equalized at Ten Dollars ($10.00) or less per lot and belonging to the same owner may, if adjacent and lying within the same city or town block, be so listed with one valuation and the tax extended in one amount; and in either or any event where more than one lot or part of lot is listed under one valuation, the tax rolls shall disclose whether the same be vacant or improved. All additions to cities and towns shall be arranged in the tax rolls in alphabetical order immediately following the original townsite.

B. In applying the tax rate to determine the amount of tax due, the county assessor shall compute same to the nearest dollar, that is, any fraction of a dollar in the amount of fifty cents ($0.50) or less shall be disregarded, and any fraction of a dollar in the amount of fifty-one cents ($0.51) or more shall be shown as a full dollar. The total amount of the tax due and extended on the tax rolls, as required by this section, shall be determined and shown accordingly. Provided, however, in all cases where, under the tax rate, the tax is computed to be less than One Dollar ($1.00), then the tax due shall be shown as One Dollar ($1.00).

C. Each property, whether lands or lots, lawfully exempted from taxation in whole or in part by reason of a homestead interest, shall be distinguished upon the tax rolls by the word "homestead" or an appropriate symbol, and opposite each of such properties shall be entered in separate columns the total assessed valuation, the value of the exemption allowed and approved and the assessed valuation after the amount of exemption allowed has been deducted. In extending the tax the county assessor shall, as to each such property, consolidate all levies to which the homestead exemption is subject, compute the tax thereon and enter the same in one column in one amount, and all the levies to which the valuation in excess of the homestead exemption is subject, compute the tax thereon and enter the same in another column in one amount.

D. All real property which is exempt from taxation shall be listed in the tax rolls, with the name of the owner, in all respects as if the same were taxable but with the reason for the exemption noted thereon across the columns where otherwise the tax would have been entered.

E. The county treasurer shall transfer to the tax rolls for the current year, in a separate column, all delinquent taxes remaining unpaid for the previous years, distinguishing the same as to each lot and tract of land by the year and amount of tax, exclusive of penalty, as to all real properties; and when giving a statement of taxes on any property, said statement shall include all taxes due and shall designate the sum due for the current year, and the sum past due and delinquent. Said transfer to the current rolls of unpaid real property tax of previous years is hereby declared to be mandatory; and the county treasurer shall be allowed not to exceed fifteen (15) days after the delivery to him of said current rolls within which to make such transfer, before he shall be required to open the same for the reception and collection of taxes and to begin the thirty-day nonpenalty-taxpaying period before delinquency.

F. The tax rolls shall be made up as required by and in the form prescribed by the State Auditor and Inspector and shall contain such other information as may be required by the State Auditor and Inspector.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2881, is amended to read as follows:

Section 2881. A. The secretary of the State Board of Equalization shall notify all railroads and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed within one (1) working day of such date. The taxpayer shall have twenty (20) calendar days from date of such notice in which to file, with the Clerk of the Court of Tax Review, a written complaint, specifying his grievances, and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended.

B. After the filing of a complaint as provided for in subsection A of this section the State Board of Equalization shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing, conduct such hearing and render its decision within sixty (60) days of the date of the notice which caused the filing of the complaint. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

D. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2884, is amended to read as follows:

Section 2884. A. The full amount of the taxes assessed against the property of any taxpayer who has appealed from a decision affecting the value or taxable status of such property as provided by law shall be paid at the time and in the manner provided by law; and if at the time such taxes or any part thereof become delinquent, any such appeal is pending, it shall abate and be dismissed upon a showing that such taxes have not been paid.

B. When such taxes are paid, the persons paying the same shall give notice to the county treasurer that an appeal involving such taxes has been taken and is pending, and that a specified portion of the tax amount is being paid under protest. If taxes are paid in two equal installments and the amount paid under protest does not exceed fifty percent (50%) of the full amount of assessed taxes, all protested taxes shall be specified in the second installment payment. If such amount does exceed fifty percent (50%) of the full amount of assessed taxes, then the portion of protested taxes that exceeds fifty percent (50%) of the full amount of assessed taxes shall be specified in the first installment payment and the entire second installment shall be specified to be paid under protest. The taxpayer shall attach to such notice a copy of the petition filed in the court or other appellate body in which the appeal was taken. It shall be the duty of such treasurer to hold such taxes so paid under protest separate and apart from other taxes collected by him. Any

portion of such taxes not paid under protest shall be apportioned as provided by law. The treasurer shall invest such protested taxes in the same manner as he invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of such protested taxes upon final determination of the appeal. If upon the final determination of any such appeal, the court shall find that the property was assessed at too great an amount, the board of equalization from whose order the appeal was taken shall certify the corrected valuation of the property of such taxpayers to the county assessor, in accordance with the decision of the court, and shall send a copy of such certificate to the county treasurer. Upon receipt of the corrected certificate of valuation the county assessor shall compute and certify to the county treasurer the correct amount of taxes payable by such taxpayer. The difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer to the taxpayer upon his filing a proper verified claim therefor, and the remainder paid under protest with accrued interest shall be apportioned as provided by law.

C. If an appeal is upon a question of valuation of the property, then the amount paid under protest by reason of the question of valuation being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the valuation of the property asserted by the taxpayer in the appeal were determined by the court to be correct.

D. If an appeal is upon a question of assessment of the property, then the amount paid under protest by reason of the question of assessment being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the assessment of the property asserted by the taxpayer in the appeal was determined by the court to be correct.

E. The procedure for payment of taxes pending resolution of appeals as provided by this section shall be applicable to any such payment of taxes made on or after July 1, 1992.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 3024, is amended to read as follows:

Section 3024. A. There is hereby created a Court of Tax Review. The Court of Tax Review shall be comprised of one district judge from each judicial district in the state. The district judge representing each judicial district shall be selected by the Justices of the Oklahoma Supreme Court. Each case brought before the Court of Tax Review pursuant to this subsection will be heard by a panel of three (3) judges. The three judges assigned to hear each case will be selected by the Chief Justice of the Oklahoma Supreme Court and will be from congressional districts different from the congressional district in which the property or county which is the subject of the case is located. In the event that the property which is the subject of the case is located in each congressional district, then the case shall be heard by a panel of three (3) judges from the Oklahoma Court of Appeals, appointed by the Chief Justice of the Supreme Court to hear such case. A majority of the three-judge panel shall be required to render a decision in each case. The Oklahoma Supreme Court shall establish court rules for the Court of Tax Review and the Clerk of the Oklahoma Supreme Court shall serve as Clerk of the Court of Tax Review. The Court of Tax Review is hereby vested with jurisdiction over and shall hear complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title, complaints regarding actions of the State Board of Equalization regarding either intracounty or intercounty property value equalization as authorized by Section 2882 of this title, and

appeals as authorized by Section 2830 of this title concerning Category 2 or Category 3 noncompliance as determined by the Oklahoma Tax Commission. The Court of Tax Review shall determine if a county deemed to be in Category 3 noncompliance is required to reimburse the Oklahoma Tax Commission from the county assessor's budget for all costs incurred as a result of the assumption of the valuation function by the Commission.

B. The Court of Tax Review shall prescribe procedures for the purpose of hearing properly filed protests against alleged illegal levies, as shown on the annual budgets filed with the State Auditor and Inspector. The Court shall reconvene as often as deemed necessary by said Court until final determination has been made as to all protested levies. The said judges shall be paid their traveling and living expenses while acting as members of said Court, out of the funds now provided by law for payment of district judges' expenses when holding court outside the counties of their residence. Decisions of the Court of Tax Review concerning alleged illegal levies shall be subject to the provisions of Sections 3025, 3026, 3027, 3028 and 3029 of this title.

SECTION 6. The Ad Valorem Task Force is hereby directed to establish a pilot program for the purpose of mapping pipelines and determining the amount of inventory held by pipeline companies in this state. For participation in the pilot program, the Task Force shall select the four counties in this state with the highest ratio of valuation of pipeline property located in the county compared to the valuation of all property located in the county. The program shall be designed so that upon its completion the Task Force may:

1. Compare the information obtained through the program and the information currently available to the state as to the amount and value of property of pipeline companies and the number of miles of pipelines and compare the distribution of such property and miles among school districts, counties and other recipients of ad valorem tax revenue;

2. Make recommendations to the Legislature regarding the feasibility and benefits to the state of expanding the pilot program either statewide or to additional areas of the state; and

3. Make recommendations to the Legislature as to whether additional information should be required of pipeline companies either through the property valuation process or upon initial construction or expansion of pipelines.

The Task Force shall contract for the services of appropriate consultants or consulting firms expert in the field of mapping or taking inventory of pipeline companies to assist the Task Force in performance of its duties and responsibilities. The Task Force shall select such consultants or contracted staff assistance on the basis of the lowest and best bids submitted in response to a request for proposals which shall be developed by the Task Force. The Ad Valorem Division of the Oklahoma Tax Commission shall cooperate with and provide assistance to the Task Force with respect to the pilot program.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 5401, is amended to read as follows:

Section 5401. A. A tax is hereby imposed, in lieu of the ad valorem tax on certain items of the whole goods inventories, both new and used items, owned and/or possessed for sale or lease by retailers of farm tractors and other equipment as defined by subsection C of this section.

B. Items to be taxed in lieu of ad valorem pursuant to the provisions of this section are those items of inventory of whole goods agricultural equipment and whole goods attachments thereto received from suppliers of agricultural equipment, if said items have a retail list price of Five Hundred Dollars ($500.00) or higher but not including repair or replacement parts. The tax shall be

paid by the dealer on such items in lieu of the annual ad valorem tax assessment of dealer's average inventory but shall not relieve any other property of the dealer from ad valorem taxation. Each dealer shall maintain a sales log for applicable items pursuant to this section with a serial number where applicable. The log shall be subject to inspection by county assessors. Equipment sold by consignment or by auctions where the selling agent does not take title to the equipment shall continue to be subject to ad valorem taxation. Sales of covered whole goods items between dealers shall be considered wholesale transactions and shall not be subject to the tax imposed by this section until sold at retail.

C. For purposes of this act, a retailer of farm tractors and other equipment is any person having a franchise or dealer agreement for selling and retailing farm tractors and farm implement. On and after January 1, 1993, those business entities which do not have a franchise or dealer agreement for retailing farm equipment, but which from time to time publicly buy and sell such farm equipment shall also be subject to the provisions of this section, and the tax imposed by this section shall apply to the same items and under the same conditions as apply to franchised dealers.

D. "Whole goods agricultural equipment" shall be defined as any machine, including but not limited to a farm tractor, combine, plow or baler, capable of performing agricultural operations either with power from its own engine, or when drawn or otherwise moved by another whole goods unit. "Whole goods attachments" shall be defined as those complete attachments which, when fitted to, drawn or otherwise moved by other equipment, perform specialized agricultural operations. Such attachments include, but shall not be limited to, combine headers, mowers, swathers, shredders and cultivation and haying equipment.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 5402, is amended to read as follows:

Section 5402. A. The in-lieu tax imposed in Section 5401 of this title shall apply on the date of sale or lease and shall be evidenced by a tax stamp. The tax stamp shall be based on the following actual sales price without reduction for any trade-in:

1. Beginning with sales of Five Hundred Dollars ($500.00) to One Thousand Nine Hundred Ninety-nine Dollars ($1,999.00): $6.00;

2. Two Thousand Dollars ($2,000.00) to Nine Thousand Nine Hundred Ninety-nine Dollars ($9,999.00): $12.00;

3. Ten Thousand Dollars ($10,000.00) to Nineteen Thousand Nine Hundred Ninety-nine Dollars ($19,999.00): $18.00;

4. Twenty Thousand Dollars ($20,000.00) to Twenty-nine Thousand Nine Hundred Ninety-nine Dollars ($29,999.00): $24.00;

5. Thirty Thousand Dollars ($30,000.00) to Thirty-nine Thousand Nine Hundred Ninety-nine Dollars ($39,999.00): $36.00;

6. Forty Thousand Dollars ($40,000.00) to Forty-nine Thousand Nine Hundred Ninety-nine Dollars ($49,999.00): $48.00;

7. Fifty Thousand Dollars ($50,000.00) to Fifty-nine Thousand Nine Hundred Ninety-nine Dollars ($59,999.00): $60.00;

8. Sixty Thousand Dollars ($60,000.00) to Sixty-nine Thousand Nine Hundred Ninety-nine Dollars ($69,999.00): $72.00;

9. Seventy Thousand Dollars ($70,000.00) to Seventy-nine Thousand Nine Hundred Ninety-nine Dollars ($79,999.00): $84.00;

10. Eighty Thousand Dollars ($80,000.00) to Eighty-nine Thousand Nine Hundred Ninety-nine Dollars ($89,999.00): $96.00; and

11. Ninety Thousand Dollars ($90,000.00) and above: $108.00.

B. The appropriate tax stamp or stamps shall be affixed by the dealer to the dealer's copy of the sales invoice covering new or used whole goods agricultural equipment and whole goods attachments thereto sold before transferring ownership to any new or used farm implement.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 5403, is amended to read as follows:

Section 5403. A. The tax stamp or stamps required by Section 5402 of this title to be affixed upon the dealer's copy of the sales invoice covering each new or used whole goods agricultural equipment or whole goods attachment thereto sold shall be manufactured or purchased by the Oklahoma Tax Commission in the required amounts. Said tax stamps shall be of such design, color combination and material and value in multiples of Six Dollars ($6.00) as the Tax Commission shall deem necessary for the administration of this tax and to afford the best security to the tax revenue involved. Said stamps shall be purchased by dealers in the county where the business is located.

B. The Commission may require any manufacturer of such tax stamps to furnish a bond in such amount as it deems necessary to protect the state and local taxing entities against loss.

C. The Tax Commission shall distribute such tax stamps to the county treasurer of each county, taking such receipt therefor as may be necessary. The county treasurer shall have the responsibility of the custody and the sale of the stamps to the person required by Section 5402 of this title to obtain such stamps. In addition, the county treasurer shall have the duty of accounting for said stamps to their respective counties, and to the Oklahoma Tax Commission as it may require.

SECTION 10. The provisions of Sections 1 and 6 of this act shall not be codified in the Oklahoma Statutes.

SECTION 11. This act shall become effective July 1, 1992.

SECTION 12. 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.