

THE HOUSE OF REPRESENTATIVES  
Thursday, April 10, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 958

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 958 - By: JOLLEY  
AND COFFEE of the Senate and TERRILL of the House.

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2817,  
as last amended by Section 39 of Enrolled House Bill No. 1830 of the 2nd  
Session of the 51st Oklahoma Legislature, which relates to ad valorem;  
providing for calculation of value of certain property; and declaring an  
emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2817, as last amended by  
2 Section 39 of Enrolled Senate Bill No. 1830 of the 2nd Session of the 51st Oklahoma  
3 Legislature, is amended to read as follows:

4 Section 2817. A. All taxable personal property, except intangible personal  
5 property, personal property exempt from ad valorem taxation, or household personal  
6 property, shall be listed and assessed each year at its fair cash value, estimated at the  
7 price it would bring at a fair voluntary sale, as of January 1.

8 The fair cash value of household personal property shall be valued at ten percent  
9 (10%) of the appraised value of the improvement to the residential real property within  
10 which such personal property is located as of January 1 each year. The assessment of

1 household personal property as provided by this section may be altered by the taxpayer  
2 listing such property at its actual fair cash value. For purposes of establishing the value  
3 of household personal property, pursuant to the requirement of Section 8 of Article X of  
4 the Oklahoma Constitution, the percentage of value prescribed by this section for the  
5 household personal property shall be presumed to constitute the fair cash value of the  
6 personal property.

7 All unmanufactured farm products shall be assessed and valued as of the preceding  
8 May 31. Every person, firm, company, association, or corporation, in making the  
9 assessment, shall assess all unmanufactured farm products owned by the person, firm,  
10 company, association or corporation on the preceding May 31, at its fair cash value on  
11 that date instead of January 1.

12 Stocks of goods, wares and merchandise shall be assessed at the value of the  
13 average amount on hand during the preceding year, or the average amount on hand  
14 during the part of the preceding year the stock of goods, wares or merchandise was at its  
15 January 1 location.

16 B. All taxable real property shall be assessed annually as of January 1, at its fair  
17 cash value, estimated at the price it would bring at a fair voluntary sale for:

18 1. The highest and best use for which the property was actually used during the  
19 preceding calendar year; or

20 2. The highest and best use for which the property was last classified for use if not  
21 actually used during the preceding calendar year.

1           When improvements upon residential real property are divided by a taxing  
2 jurisdiction line, those improvements shall be valued and assessed in the taxing  
3 jurisdiction in which the physical majority of those improvements are located.

4           The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for  
5 the promulgation of rules which shall be followed by each county assessor of the state, for  
6 the purposes of providing for the equitable use valuation of locally assessed real property  
7 in this state. Agricultural land and nonresidential improvements necessary or  
8 convenient for agricultural purposes shall be assessed for ad valorem taxation based  
9 upon the highest and best use for which the property was actually used, or was  
10 previously classified for use, during the calendar year next preceding January 1 on which  
11 the assessment is made.

12           C. The use value of agricultural land shall be based on the income capitalization  
13 approach using cash rent. The rental income shall be calculated using the direct  
14 capitalization method based upon factors including, but not limited to:

- 15           1. Soil types, as depicted on soil maps published by the Natural Resources  
16 Conservation Service of the United States Department of Agriculture;
- 17           2. Soil productivity indices approved by the Ad Valorem Division of the Tax  
18 Commission;
- 19           3. The specific agricultural purpose of the soil based on use categories approved by  
20 the Ad Valorem Division of the Tax Commission; and
- 21           4. A capitalization rate to be determined annually by the Ad Valorem Division of  
22 the Tax Commission based on the sum of the average first mortgage interest rate

1 charged by the Federal Land Bank for the immediately preceding five (5) years, weighted  
2 with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

3 The final use value will be calculated using the soil productivity indices and the  
4 agricultural use classification as defined by rules promulgated by the State Board of  
5 Equalization. This subsection shall not be construed in a manner which is inconsistent  
6 with the duties, powers and authority of the Board as to valuation of the counties as fixed  
7 and defined by Section 21 of Article X of the Oklahoma Constitution.

8 However, in calculating the use value of buffer strips as defined in Section 2817.2 of  
9 this title, exclusive consideration shall be based only on income from production  
10 agriculture from such buffer strips, not including federal or state subsidies, when valued  
11 as required by subsection C of Section 2817.2 of this title.

12 D. The use value of nonresidential improvements on agricultural land shall be  
13 based on the cost approach to value estimation using currently updated cost manuals  
14 published by the Marshall and Swift Company or similar cost manuals approved by the  
15 Ad Valorem Division of the Tax Commission. The use value estimates for the  
16 nonresidential improvements shall take obsolescence and depreciation into consideration  
17 in addition to necessary adjustments for local variations in the cost of labor and  
18 materials. This section shall not be construed in a manner which is inconsistent with the  
19 duties, powers and authority of the Board as to equalization of valuation of the counties  
20 as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

21 The use value of facilities used for poultry production shall be determined according  
22 to the following procedures:

1           1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a  
2 standard system of valuation of both real and personal property of such facilities, which  
3 shall be used by all county assessors in this state, under which valuation based on the  
4 following shall be presumed to be the fair cash value of the property:

5           a.       for real property, a ten-year depreciation schedule, at the end of which  
6                   the residual value is twenty percent (20%) of the value of the facility  
7                   during its first year of operation, and

8           b.       for personal property, a five-year depreciation schedule, at the end of  
9                   which the residual value is zero;

10          2. Such facilities shall be valued only in comparison to other facilities used  
11 exclusively for poultry production. Such a facility which is no longer used for poultry  
12 production shall be deemed to have no productive use;

13          3. During the first year such a facility is placed on the tax rolls, its fair cash value  
14 shall be presumed to be the lesser of the actual purchase price or the actual documented  
15 cost of construction; and

16          4. For the purpose of determining the valuation of nonresidential improvements  
17 used for poultry production, the provisions of this subsection shall be applicable and such  
18 improvements shall not be considered to be commercial property.

19          E. The value of investment in property used exclusively by an oil refinery that is  
20 used wholly as a facility, device or method for the desulphurization of gasoline or diesel  
21 fuel as defined in Section 2817.3 of this title shall not be included in the capitalization  
22 used in the determination of fair market value of such oil refinery if such property would

1 qualify as exempt property pursuant to Section 2902 of this title, whether or not an  
2 application for such exemption is made by an otherwise qualifying manufacturing  
3 concern owning the property described by Section 2817.3 of this title.

4 F. The use value of a lot in any platted addition or a subdivision in a city, town or  
5 county zoned for residential, commercial, industrial or other use shall be deemed to be  
6 the fair cash value of the underlying tract of land platted, divided by the number of lots  
7 contained in the platted addition or subdivision until the lot with building or buildings  
8 located thereon shall have been conveyed to a bona fide purchaser or shall have been  
9 occupied other than as a sales office by the owner thereof, or shall have been leased,  
10 whichever event shall first occur. One who purchases a lot for the purposes of  
11 constructing and selling a building on such lot shall not be deemed to be a bona fide  
12 purchaser for purposes of this section. However, if the lot is held for a period longer than  
13 two (2) years before construction, then the assessor may consider the lot to have been  
14 conveyed to a bona fide purchaser. The cost of any land or improvements to any real  
15 property required to be dedicated to public use, including, but not limited to, streets,  
16 curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention  
17 ponds, easements, parks or reserves shall not be utilized by the county assessor in the  
18 valuation of any real property for assessment purposes.

19 G. The transfer of real property without a change in its use classification shall not  
20 require a reassessment thereof based exclusively upon the sale value of the property.  
21 However, if the county assessor determines:

1           1. That by reason of the transfer of a property there is a change in the actual use or  
2 classification of the property; or

3           2. That by reason of the amount of the sales consideration it is obvious that the use  
4 classification prior to the transfer of the property is not commensurate with and would  
5 not justify the amount of the sales consideration of the property;

6 then the assessor shall, in either event, reassess the property for the new use  
7 classification for which the property is being used, or, the highest and best use  
8 classification for which the property may, by reason of the transfer, be classified for use.

9           ~~G.~~ H. When the term “fair cash value” or the language “fair cash value, estimated  
10 at the price it would bring at a fair voluntary sale” is used in the Ad Valorem Tax Code,  
11 in connection with and in relation to the assessment of real property, it is defined to  
12 mean and shall be given the meaning ascribed and assigned to it in this section and  
13 when the term or language is used in the Code in connection with the assessment of  
14 personal property it shall be given its ordinary or literal meaning.

15           H. I. Where any real property is zoned for a use by a proper zoning authority, and  
16 the use of the property has not been changed, the use and not zoning shall determine  
17 assessment. Any reassessment required shall be effective January 1 following the  
18 change in use. Taxable real property need not be listed annually with the county  
19 assessor.

20           I. J. If any real property shall become taxable after January 1 of any year, the  
21 county assessor shall assess the same and place it upon the tax rolls for the next ensuing  
22 year. When any building is constructed upon land after January 1 of any year, the value

1 of the building shall be added by the county assessor to the assessed valuation of the land  
2 upon which the building is constructed at the fair cash value thereof for the next ensuing  
3 year. However, after the building has been completed it shall be deemed to have a value  
4 for assessment purposes of the fair cash value of the materials used in such building  
5 only, until the building and the land on which the building is located shall have been  
6 conveyed to a bona fide purchaser or shall have been occupied or used for any purpose  
7 other than as a sales office by the owner thereof, or shall have been leased, whichever  
8 event shall first occur. The county assessor shall continue to assess the building based  
9 upon the fair market value of the materials used therein until the building and land  
10 upon which the building is located shall have been conveyed to a bona fide purchaser or  
11 is occupied or used for any purpose other than as a sales office by the owner thereof, or is  
12 leased, whichever event shall first occur. ~~However, the fair cash value of a lot in any  
13 platted addition or a subdivision in a city, town or county zoned for residential,  
14 commercial, industrial or other use shall be deemed to be the total purchase price paid by  
15 the developer of the addition or subdivision for the land comprising the platted addition  
16 or subdivision divided by the number of lots contained in the addition or subdivision until  
17 the lot with building or buildings located thereon shall have been conveyed to a bona fide  
18 purchaser or shall have been occupied other than as a sales office by the owner thereof,  
19 or shall have been leased, whichever event shall first occur. One who purchases a lot for  
20 the purposes of constructing and selling a building on such lot shall not be deemed to be  
21 a bona fide purchaser for purposes of this section. However, if the lot is held for a period  
22 longer than two (2) years before construction, then the assessor may consider the lot to~~

1 ~~have been conveyed to a bona fide purchaser. The cost of any land or improvements to~~  
2 ~~any real property required to be dedicated to public use, including, but not limited to,~~  
3 ~~streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or~~  
4 ~~retention ponds, easements, parks or reserves shall not be utilized by the county assessor~~  
5 ~~in the valuation of any real property for assessment purposes.~~

6 ~~J. K.~~ In case improvements on land or personal property located therein or thereon  
7 are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other  
8 cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm,  
9 winds, floodwaters, overflow of streams or other cause, after January 1 and before the  
10 adjournment of the county board of equalization during any year, the county board of  
11 equalization, in cooperation with the county assessor, shall determine the amount of  
12 damage, and shall make an order directing the assessment of the property for that year  
13 at the fair cash value of the property, as defined herein, taking into account the damage  
14 occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other  
15 cause.

16 ~~K. L.~~ All taxable personal property used in the exploration of oil, natural gas, or  
17 other minerals, including drilling equipment and rigs, shall be assessed annually at the  
18 value set forth in the first Hadco International monthly bulletin published for the tax  
19 year, using the appropriate depth rating assigned to the draw works by its manufacturer  
20 and the actual condition of the rig.

1           SECTION 2. It being immediately necessary for the preservation of the public  
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
3 this act shall take effect and be in full force from and after its passage and approval.  
4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,  
5 dated 04-09-08 - DO PASS, As Amended.