A PROPOSED SEVERANCE TAX TO BE LEVIED UPON THE NATURAL RESOURCES OF THE STATE OF KANSAS THE PROCEEDS TO BE USED FOR PUBLIC EDUCATION

A THESIS

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M. A. FINLEY

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Approved for the Major Department

Edwin J. Brown

Approved for the Graduate Council

Edwin J. Brown

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M. A. F.

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CHAPTER I

INTRODUCTION

The constitution of Kansas provides for a free school system which embraces common schools and schools of higher grades, including normal schools, preparatory collegiate and university departments.[1]

While the constitution has provided for and limits the scope of education, yet the state has set no direct limit upon property which may be taxed for the support of public education, so long as that property is taxed according to classification.[2] It therefore becomes the duty of the people of the State to decide the classification of property and to place the proper levy against that property.

The people of Kansas have builded various institutions of education, ranking from the one-room school to the magnificent universities and colleges of the State. The real purpose and emphasis have been elimination of illiteracy and promotion of good citizenship. This can be done effectively only by taxation of the wealth of the State, and, in order that the ever increasing demand upon the public for advancement in education may be met, taxation must be made to embrace every type of property of the State in a fair and equitable manner.

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[1] Constitution of Kansas. Article VI, Section 2.

[2] Ibid., Article XI, Section 1.

In the early years from 1856-60 in the territory of Kansas, before the territory had become sufficiently organized to take its place among the other States of the Union, the citizens were willing to make unlimited sacrifice in the interest of public education. Thus it was that the early settlers of Kansas, hoping to create a free public school system, slowly evolved the idea that equalization of benefits arise from a uniform school system. Under the form of government which Kansas found herself, it became increasingly clear that equal opportunities could come only from an equalization of burden. Equalization of burden was early worked out under the general property scheme of taxation. Amid the unknown wealth of Kansas the legislators went about their task, which was to secure revenue for the new adventure, the school system.

The raw lands of Kansas had little value. Industry could not exist in an undeveloped country such as was to be found on the plains. The value of the natural resources of the State was small. The public land which had been granted the State for educational purposes was sold at low prices. Sources of revenue were scarce. But as the natural wealth of the State became more developed and tangible industries grew, institutions became established, and a greater need for progress became evident. As efforts toward progress took place new and better methods of exploring the natural resources were brought into use.

Oil, coal, zinc, salt, and many other valuable deposits of minerals were discovered. As early as 1889, oil had been discovered in the State. Since that time millions of barrels of oil, tons of coal, and billions of feet of natural gas have been produced from the natural store of wealth.

It is the great volume of natural minerals annually taken from the soil of Kansas which has prompted this study. It seems right that the natural resources as they are taken from the soil should be made to yield revenue through a severance tax.

The social thinking of Kansas developed. People began to realize that the natural resources of a State or Nation are a heritage of a whole people. This rich endowment of Nature upon a State or Nation depends upon education for development into economic goods. The inequality of the tax burden upon these goods has lead to a study of a severance tax.

The major part of this study will be devoted to ways of equalizing the tax burden for support of public education, through a "severance or gross production tax." This tax is to be levied upon the natural resources as they are severed from the soil of Kansas.

It has been long recognized by the more serious minded students of taxation that "Economy" taxation should involve a low percentage of overhead cost for their collection. "Diversity" taxes should tap more than one source.[3]

However, Kansas has to a large extent disregarded the principal of "diversity" and in doing so placed the major burden of taxation for the support of public education upon personal and real estate property.

Many states of the Union--including Alabama, Arkansas, Louisiana, Minnesota, Montana, Oklahoma, Texas, and West Virginia--have taken the lead in establishing a definite "severance tax" levied upon the natural products of the State. The proceeds of this tax are used in different ways, one of

[3] National Tax Association Report.

which is support of public education.

It seems quite obvious that whatever plan is to be used in taxing the natural resources that plan must follow closely the decisions of the State Courts. The general property such as operating machinery, rigs, and equipment must be kept separate from the natural resource property. To exempt these general properties in an attempt to place the entire tax upon the mineral wealth would be contrary to the State Constitution. The Constitution requires there be uniformity in taxing rates of properties of the same class.[4]

In order to clarify the above statement and at the same time show the necessity of keeping separate such properties as equipment which may be used in the production or refining of natural resources and the natural product, the case of Wheeler vs Weightman, 96 Kan., 50, might be sighted. In this case, the Supreme Court held unconstitutional the mortgage registration law which was passed by the legislature of 1915. The law provided for the payment of a registration fee of fifteen cents per annum on each one hundred dollars of the debt secured by the mortgage. When such fee had been paid the mortgage was exempt from future taxation.

The decision of the court was rendered in the following language:

> No one could successfully contend that all personal property in the State may be exempt from taxation, or that all property belonging to corporations or to a class of corporations like railroads may be exempt from taxation. To do so would manifestly violate the rule of uniformity and equality. Yet the Constitution itself provides that some real estate and some personal property shall be exempt and contemplates that further exemptions may be made. Such exemptions must rest on the definite basis of promoting

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[4] Constitution of the State of Kansas, loc. cit.

the public welfare in some particular and substantial way and even then they cannot be tolerated to the extent of building up large accumulations of favored property which would disturb general equality and uniformity.[5]

Previous Studies

In a study made by the Kansas Tax Commission,[6] 1929, the purpose of the study was to classify, revise, and codify the tax laws of the State of Kansas and to present a report to the governor in an attempt to furnish for the State of Kansas a uniform system of taxation.

The Kansas Legislative Council published a report of its findings, November 17, 1934. In this report, under the title "Gross Production Tax on Petroleum and Natural Gases," appears a proposal for a three per cent tax upon the gross production value of oil and natural gas. There is also to be found in this report the amount of gross production tax imposed by different states such as Arkansas, Oklahoma, Texas, and West Virginia.[7]

There appears in a study entitled "Potential Sources of Additional Revenue from Taxation" made by the Research Department of the Kansas Legislative Council, January 22, 1937, some estimates of revenue from taxation if certain proposed levies are used. These estimates are between $440,000 and $2,075,000 annually, in addition to tax now existing. This estimate was arrived at by using tax rates of other states and applying them to oil and gas figures as produced in Kansas.[8]

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[5] Session Laws of Kansas, 1915, p. 314.

[6] Kansas Tax Code Commission, pp. 37-53. (Submitted to the Governor, 1929.)

[7] Research Department, Possible Additional Revenue from Taxation, p. 1. (Topeka, 1934.)

[8] Carl Shoup, Facing the Tax Problem, (Twentieth Century Fund Inc., New York.), 1937, p. 25.

In an earlier study made by the Twentieth Century Fund Inc., "Revenue Derived from Different Sources," reference was made to states which at the time of the study levied a severance tax upon natural resources. No mention was made, however, as to the per cent of the revenue which would be returned to the different taxing units in the state and local governments.[9]

Malcolm M. Davison conducted a study at the University of California, entitled Legislative Problems in 1934, in which he investigated the many phases of the severance tax as it applies to the different states of the Union. The conclusions of this study were: 1. The yield of severance taxes are unpredictable since there is no "normal" rate of exploitation of resources. 2. The tax is uncertain since the proceeds flow in rapidly some years and become non-existing in others. 3. The tax yields the largest amount when government little needs the revenue; and when revenue is needed severance of resources drops off and the yield is small.[10]

The Scope of the Study

1. This work undertakes a careful study of the amount of natural resources which have been taken from the soil of Kansas.
2. An estimation of the amount of the mineral wealth still remaining unsevered.
3. The variation and price from year to year of material produced.
4. The amount of revenue in the form of taxes available from minerals had there existed in Kansas a "severance or gross production tax" on natural resources from the year 1889 to 1937.

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[9] W. T. Bishop, Potential Sources of Additional Revenue from Taxation (Kansas State Printing Plant, Topeka, 1937), p. 11.

[10] Malcolm M. Davison, Legislative Problems, No. 3 (University of California, Berkley, 1934).

5. A study of gross production tax in other states and how the proceeds of that tax has been used to assist public education.
6. The amount of revenue yet available for public school use if a severance tax should now be enacted on minerals yet unmined.
7. To compare the amount of revenue which could be produced by the levy of a three per cent severance tax on oil, gas, and other natural resources with the ad valorem tax which is now used by counties.
8. A proposal as to the proper method of distribution of the revenue to the different school units.
9. To write a proposed bill for the enactment of a severance tax upon the natural resources yet unsevered from the soil of Kansas.

Method of Procedure

1. An investigation was first made to determine the extent of and the need for such a study.
2. Information was obtained from the following states relative to "severance tax" and to what use the proceeds were put: Alabama, Arkansas, Arizona, California, Louisiana, Montana, Minnesota, Oklahoma, Oregon, New Mexico, Wyoming, Texas, South Dakota, and West Virginia.
3. Reports of special committees and commissions on tax problems were studied.
4. Statistical material was investigated.
5. Government documents were consulted.

6. The opinions of attorneys-at-law were sought to determine the legal status of the bill which is found herein.

Presentation of Data

The study has been so planned as to present facts from original data in the form of statistical tables. Through comparison, discussion, and deductions, facts have been presented from associated subjects and studies.

Definition of Terms

1. Public education, in this work, shall have the same meaning as is found in the Constitution of Kansas.
2. Gross Production, Severance, or Gross Products Tax in this study shall be understood to mean any tax levied upon natural resources which have in any way been severed from the natural soil or any mineral which has been brought forth from the soils in a raw state.
3. The word person or persons, as used in this study, shall include person, firm, concern, receiver, or receivers, trustees, executer, administrator, agent, institution, association, partnership, company corporations, and persons acting under declaration of trust as well as the trustees acting under such declarations of trust.
4. Value, as used herein, shall mean actual market value of oil and any bonus or premium which may be paid shall not be excluded.
5. The word oil as herein used shall mean petroleum, crude, or any oil which may be taken from the earth.
6. Coal as used in this work shall mean exactly as defined by Webster's

unabridged dictionary of any year which that word may appear.

7. First Purchaser shall mean any person purchasing from the producer.

8. Subsequent purchaser shall mean any person operating any reclamation plant, treating plant, refinery, pressing plant or any other purchaser when oil is purchased from any other than the producer.

9. Carrier, when it appears anywhere herein, shall mean the owner, operator, manager, or director of any means which is now used or which may come into use in transporting oil.

10. Production or gross production, shall mean total oil or mineral produced including all royalty or other interests.

11. Barrel shall mean in this work a container which may hold forty-two standard liquid gallons, according to the United States Bureau of Weights and Measures.

12. Royalty owners shall mean and include any and all persons owning any mineral under a producing lease held within the State of Kansas.

13. Petroleum as used in this act shall mean any natural rock, or oil extracted from the earth.

14. Special condition shall mean when found in this act, any condition not directly mentioned in this act.

15. Production or total production shall mean the total amount of oil or other minerals produced, royalty included.

16. Royalty shall be taken to mean, when used by itself in this act, and include all persons owning any mineral rights under any producing lease held within this State.

CHAPTER II

SEVERANCE TAX IN OTHER STATES

There are many states which levy taxes against natural resources. These taxes are in many forms. Some are levied on the minerals yet unmined, others are levied against the mineral in lieu of the land.

In this chapter care has been exercised in choosing for study only those states which levy a severance tax upon natural resources which are severed from the soil.

Alabama

The State of Alabama levies a severance tax on coal and iron ore. The tax on coal is a minimum of two and one-half ($2\frac{1}{2}$) cents per ton. This rate, however, may be lowered at the discretion of the government.

The severance tax on iron ore is four and one-half ($4\frac{1}{2}$) cents per ton. This tax may likewise be reduced in case of depressed price conditions. There seems to be no provisions for the government increasing this tax in case of "boom" prices.

Alabama does not have a severance tax on forestry products. There is, however, a license tax levied against saw mills, planing mills, and all mills or planes making a finished or semi-finished product. The proceeds from this act accrue to the credit of the State Forestry Department.

The revenue derived from the severance tax is set apart as a trust fund for educational purposes only and is designated as the Alabama Special

Educational Trust Fund.

The exact distribution of the revenue secured from the severance tax was not evident. All the revenue was given to education, but it was not clear how much went to each type of education.

Arkansas

The severance tax in force in the State of Arkansas contains some very fine features. The tax is levied very directly upon the gross cash market value.

This tax rests upon lumber, boxite, minerals, including oil and natural gas.

> A tax is levied on products severed from the soil with the following rates;
>
> a. A tax of $2\frac{1}{2}$ cents of the gross cash market value of all products severed from the soil.
>
> b. Instead of the $2\frac{1}{2}$ per cent tax, a tax of 25 cents per ton is levied on boxite.
>
> c. Instead of $2\frac{1}{2}$ cent tax, a tax of seven cents per thousand feet board measure on total stumpage is levied on lumber.
>
> d. Instead of $2\frac{1}{2}$ per cent tax, a tax of ten cents per ton is levied on manganese ore.[1]

Two-thirds of this fund goes into a common school fund.

One feature found in the severance tax law of Arkansas, which does not well fit Kansas, is the tax levied on lumber. This source would not yield a great amount of revenue in Kansas. There is a question, if the tax would pay for the enforcement of the act.

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1 The School Laws of Arkansas, Russellville, Arkansas, Act 118, 1931. (Russellville Printing Company.)

California

There is considerable question as to the place California should hold in this study since the revenue provided does not come from a severance tax. But because of the unique method of using the money derived from minerals taken from public lands, California is included in the study.

"All moneys derived from bonuses, royalties, and rentals shall be received by the State Treasurer and by him credited to the State Junior College Fund, which is hereby created."[2] No part of the revenue derived in the above manner goes for the support of the common school.

Proposals have been made repeatedly for a tax on natural resources, on a severance basis. Such legislation has never been enacted. An *ad valorem* tax is levied by the political subdivision taxing units. This tax is an *ad valorem* tax on land containing timber, oil, gas, and other minerals. This tax is not in lieu of the tax on the land but in addition to the regular land value.

Louisiana

Louisiana provides for a severance tax of three per cent market value of the gross products of oil and natural gas. There is a severance tax levied against other minerals also.

> Severance Tax: Notwithstanding any legislative appropriations heretofore made or any allocation in this Constitution made, the legislature shall allocate a portion of the severance tax on oil or gas, not less than one-fifth and on sulphur not less than one-

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[2] *School Code of the State of California* (Office of Public Instruction, Sacramento, 1931), p. 175.

third, of the amount collected therein to the parish from within which such tax is collected; Provided that the amount thus allocated shall not exceed two hundred thousand dollars ($200,000) on oil or gas and one hundred thousand dollars ($100,000) on sulphur to any parish in any one year.

The legislature shall provide for the distribution of the funds allocated to the parish under this provision among the governing authorities of such parish as have jurisdiction over territories from within which such resources are severed and collected.[3]

Minnesota

It is difficult to say just what amount of revenue derived from the Mineral Tax Law goes to schools. Certain parts of the revenue coming from the Mineral Tax Law goes to the Permanent School Trust Fund. The part which is placed in the Permanent School Trust Fund is limited to income therefrom. Certain other parts of the revenue derived from natural resources are allocated to the several schools of the state. It is not clear just what amount is allocated entirely for education. To quote from the law:

Every person engaged in the business of mining or producing iron ore or other ores in this State, shall pay the State of Minnesota an Occupation Tax equal to 6 per cent of the valuation of all ores mined or produced, which said tax shall be in addition to all other taxes provided for by law, said tax to be due and payable from such person on May 1st of the year covered by the report there upon to be filed as herein after provided.[4]

Section 14.

All Occupation tax which shall be due and payable on May 1, 1924 and subsequent thereto, from persons, co-partnership, companies, joint stock companies, corporations, and associations

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[3] School Laws of Louisiana, Article V, Section 21 (Baton Rouge, 1932), p. 14.

[4] Minnesota Session Laws, 1925. Chapter 307, Section 1.

however or for whatever purpose organized, engaged in the business of mining or producing iron ore or other ores, when collected shall be apportioned and distributed in accordance with Section 1A of Article 9 of the Constitution of this State, in the manner following to-wit: fifty per cent to the State General Revenue Fund, forty per cent to the Permanent School Fund and ten per cent to the Permanent University Fund.[5]

Montana

The tax as levied by the State of Montana is not called a severance tax but rather a "License Tax." This tax conforms very closely to the purpose of a "severance tax."

Oil License Tax: Every person engaged in or carrying on the business of producing within this State, petroleum or other minerals or crude oils, or engaged in or carrying on the business of owning, controlling, managing, leasing or operating within this State any well or wells from which any merchantable or marketable petroleum or other minerals or crude oil is extracted or produced, sufficient in quantity to justify each year thereafter, when engaged in or carrying on any such business in this State, pay to the State of Montana, a license tax for engaging in or carrying on such business in an amount equal to two per cent of the total gross value of all petroleum and other minerals or crude oil produced by such persons within the State during the year.

On January 31st of each year, the State Treasurer shall transfer to the Common School Interests and Income Fund, the total amount of such license tax collected during the preceding twelve months, the same to be apportioned in the same way as other moneys in the said fund and at the same time.

The State Treasurer shall also apportion a sum equal to twenty-five per cent (25%) of such license tax collected during such preceding twelve months to the county and district high schools of the State on the basis of the aggregate number of days' attendance during the preceding school year in each of said high schools respectively; and fifty per cent (50%) of such tax shall be credited to the General Fund of the State.[6]

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[5] Ibid., Section 14.

[6] Revised Code of Montana, Section 2398 and 2399 (Helena), 1921.

New Mexico

The State of New Mexico levies a "severance tax" on the natural resources as they are severed from the soil. The amount of revenue derived from a tax on natural resources is collected by the Bureau of Revenue of the State of New Mexico and paid to the State Treasurer. The State Treasurer places the revenue thus derived in the General Fund. No mention is made of education in regard to the amount allocated for its support.

Last year there were collected in the State of New Mexico, the following revenues from the "severance tax" on natural resources:

Oil and gas	$698,644.67
Coal	4,887.64
Metals	6,108.30
Timber	475.01
Stone	35.71
Potash	39,278.10
Carbon Dioxide	478.65
Total	$749,908.08

Section 2: Taxes as levied by Section 1 of this act shall be predicated upon the value of such products severed and saved from the soil of this State and shall be paid at the following rates:[7]

On oil	2%
On natural gas	2%
On Coal	1/8 of 1%
On Gold	1/8 of 1%
On lead	1/8 of 1%
On stone	1/8 of 1%
On timber	1/8 of 1%
On zinc	1/8 of 1%
On silver	1/8 of 1%
On copper	1/8 of 1%
On potash	1%
On asphalt	1/8 of 1%

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[7] Session Laws of the State of New Mexico, Chapter 115 (Santa Fe), 1937, p. 1.

There is one feature peculiar to the Severance Tax Law of the State of New Mexico. There is allowed three per cent of the revenue collected for the purpose of administering the act. This is in keeping with good administration, in that it prevents mismanagement of funds, and at the same time makes the act self-supporting.

Oklahoma

The State of Oklahoma levies a gross production tax on certain natural resources. The revenue from this tax is distributed among the different taxing units. Twenty per cent of such collections from each county are returned thereto. One-half of that returned is to be used by the schools. One-half is used by the county highways. Seventy-eight per cent of the collections are placed in the general revenue fund. Two per cent is allowed to the Tax Commission to defray expenses of collection.

TABLE I

REVENUE FROM SEVERANCE TAX BY AMOUNT AND PER CENT FOR 1934-35

State	Amount	Source	Per cent
Louisiana	$1,272,720.99	Severance	18.8
Alabama	73,781.20	Severance	.07
Arkansas	152,018.00	Severance	6.4
Montana	24,131.57	Gross value	2.69
New Mexico	175,920.00	Severance	4.5
Oklahoma	1,479,934.00	Gross Production	18.01*

Read table thus: Louisiana collected for the years 1934-35 from a severance tax $1,272,720.99 which was 18.8 per cent of all revenue collected for the year.

* National Education Association Research Division, School Finance Systems. (Washington, D. C., 1935.)

There has been apportioned out of the General Revenue Fund this year the sum of $12,800,000 for the support of common schools in the State of Oklahoma. There has also been apportioned $6,000,000 for this biennium for direct relief. It can therefore be seen that gross production tax revenue apportioned to the General Revenue Fund is in a large measure returned to local units of government. The gross production tax ordinarily supplies approximately forty per cent of all revenue going into the General Revenue Fund. It is the largest source of revenue contributing to this fund.

Thus it can well be seen the importance of such tax were it to be enacted on natural products in the State of Kansas.

Section 558. Gross Production Tax.

> Every person, firm, association or corporation engaged in mining or production, within this State of aforesaid asphalt, or ores bearing lead, zinc, jack, gold, silver, or copper, or of petroleum or other crude oils or other mineral oils, natural gas and / or casinghead gas shall pay to the Oklahoma Tax Commission, a tax equal to three-fourths of one per centum on the gross value and a tax equal to five per centum of the gross value of the production of petroleum or other crude or mineral oils. One-tenth of the sum collected shall be distributed to the various school districts in said county on a per capita student attendance basis as shown for the last previous school year and used for the maintenance of common schools.[8]

South Dakota

The State of South Dakota has a tax known as the "Ore Tax." This tax is in reality a severance tax but is limited in that only one company, the Homestake Mining Company of Lead, is the only tax payer, paying tax under

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[8] <u>School Laws of Oklahoma</u>, Article XLIII, Section 558, 1935, p. 153.

the act since it is the only mine operating on a paying basis.

Section 1.

> Upon every person, firm, co-partnership, association, joint stock company, joint adventure, or corporation, however organized, now engaged in, or continuing to, or who may hereafter engage in, or continue to engage in the business of mining, severing or extracting from the lands and the natural resources of this State, or processing the same, any gold, silver, lead, tin, or other mineral products or combinations thereof, a tax is hereby imposed which shall be equal to six per cent (6%) of the value of the article produced.[9]

Texas

The constitution of the State of Texas, provided that one-fourth of the revenue derived from the State Occupation Tax shall be set apart annually for the benefit of the Public Free Schools.

This constitutional provision has been so interpreted by the courts that the legislature can allocate funds derived from occupation taxes in excess of one-fourth of the revenues.[10]

The legislature has seen fit to allocate one-half of the revenue derived from the occupation tax on oil to the Public School Fund. The legislature of Texas levied a tax on natural gas, one-fourth of which is to go to the State Available School Fund.[11] To quote:

> There is hereby levied an occupation tax on oil produced within this State of two and three quarters cents (2-3/4) per barrel of forty-two (42) standard gallons, said tax shall be computed upon

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[9] Session Laws of the State of South Dakota, Chapter 203, Section 1, (Pierre), 1937.

[10] Constitution of the State of Texas, Article 7, Section 5.

[11] Public School Laws of the State of Texas, Section 347 (Austin), 1933-1935, pp. 139-140.

the total barrels of oil produced or salvaged from the earth or water of this State, without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurement of contents. Provided, however, that occupation tax herein levied on oil shall be two and three-quarters (2-3/4) per cent of the market value of said oil whenever the market value thereof is in excess of one dollar ($1.00) per barrel of forty-two (42) standard gallons.[12]

There is in addition to the above, a tax of three-sixteenths of one per cent levied against oil. The proceeds of this tax is for the purpose of enforcing the oil and gas laws. This however has nothing to do in any way with the school levy.

TABLE II

REVENUE COLLECTED WITHIN STATES HAVING A SEVERANCE TAX IN 1936

State	Revenue
Alabama	$368,000
Arkansas	346,000
Louisiana	3,960,000
Michigan	365,000
Minnesota	462,000
Montana	323,000
New Mexico	459,000
Oklahoma	10,420,000
South Dakota	635,000
Texas	*

Read table thus: Alabama received $368,000 revenue from the severance tax in 1936.

* Carl Shoup, Facing the Tax Problem, Twentieth Century Fund Inc. (Columbia University, New York, 1937), p. 530.

12 Session Laws of the State of Texas, Section 2. House Bill 154 (Austin), 1925, p. 5.

West Virginia

In the State of West Virginia, all revenue received from a tax on natural resources is paid into the General Revenue Fund of the State. Money from all other sources is also paid into this fund. Most of the money is not "earmarked" for any particular purpose. However, out of the General Revenue Fund there is appropriated money for elementary and high schools. The percentage of the General Revenue Fund used for elementary and high schools is approximately forty-three per cent.

Wyoming

The State of Wyoming is one of the States in question. No severance tax as such is levied. Wyoming is listed in other studies as one of the States having a severance tax.

There are, however, two methods of assessing natural resources, one method is by classification of the mineral land which is not in production and is assessed by local assessors at a certain rate per acre. The numerous levies of the particular district wherein the land is situated are extended against the values and portions of this tax goes to the support of schools. It will be quickly seen that this method conforms quite closely to the method used in Kansas, with the exception that Kansas applies an *ad valorem* tax to the mineral wealth stored or in evidence at the time of assessment.

The other method of assessment is land from which minerals are being produced. In this instance, the gross production coming from such land is reported to the Board of Taxation. The Board places a certain value per unit on the production and certifies the same to the local taxing officials.

The valuation resulting from the production is then placed upon the tax roll and is taxed in lieu of the land. The amount going to the support of public education, varies in each particular school district. Whatever levy is made for the school district is extended against the above outlined values as an ad valorem tax.

CHAPTER III

AN ESTIMATION OF SEVERANCE TAX REVENUE

The true standing of Kansas as a mineral producing State is not generally understood. There is reason to believe that citizens of the State have little knowledge of the ranking of the State in the mineral producing field.

Using figures covering a five-year period, Kansas ranks tenth in annual value of mineral products sold. It ranks ahead of all other mineral producing States of the West, except California. With all the renown which Alaska has gained from sales of mineral products, yet Kansas is far ahead of Alaska. Kansas ranks first in production of volcanic ash, third in production of zinc, and fourth in amounts of salt and petroleum produced and sold.

Perhaps few people of Kansas are aware of the magnitude of the oil industry of the State. It is not generally known by the citizens of Kansas that there are produced annually approximately 50,000,000 barrels of crude oil at a sale value of $50,000,000.

After forty-three years of production, it seems that the oil and gas resources of Kansas have scarcely been touched. In the past, 210 billion cubic feet of gas and 863,500,000 barrels of oil have been extracted from the soil. There were seventy-five billion cubic feet of gas produced in 1937. These amounts can hardly be thought of as a fair beginning toward the possible addition of wealth to the State of Kansas.

TABLE III

CRUDE OIL PRODUCED IN KANSAS FOR THE YEARS 1889 TO 1937

Years	Barrels	Years	Barrels
1889	500	1914	4,250,540
1890	1,200	1915	4,009,329
1891	.....	1916	13,042,800
1892	5,000	1917	37,986,668
1893	18,000	1918	43,253,470
1894	40,000	1919	29,683,972
1895	44,430	1920	32,446,427
1896	113,571	1921	35,749,268
1897	81,098	1922	32,387,646
1898	70,980	1923	29,812,123
1899	67,570	1924	29,671,551
1900	74,444	1925	38,151,622
1901	173,151	1926	41,346,511
1902	331,743	1927	41,739,456
1903	932,315	1928	38,420,069
1904	4,350,779	1929	40,756,082
1905	3,450,779	1930	42,173,413
1906	3,100,065	1931	25,500,000
1907	2,409,521	1932	31,720,000
1908	1,802,328	1933	27,700,000
1909	1,263,764	1934	46,481,000
1910	1,138,668	1935	56,873,000
1911	1,378,819	1936	62,866,400
1912	1,592,796	1937	93,800,000 *
1913	2,375,342		

Read table thus: In the year 1889, there were produced in Kansas 500 barrels of oil.

During 1937 alone 122 gas wells were "drilled in," bringing the total to 594 gas wells in the Western counties of Kansas alone.[1]

A limited view of the tremendous amount of revenue which has been lost to our school system, because the resources of the State were not fully pressed

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[1] Walter A. VerWiebe, Oil and Gas Resources of Western Kansas. State Geological Survey of Kansas (Topeka: Kansas State Printing Plant, 1938), p. 17.

* Roy H. Hall, Anthony Folger, Development of Oil and Gas Resources of Kansas. (Circular 2, February, 1933, Lawrence, Kansas.)

into service, may be seen by the following figures. Since the initial production of oil in Kansas in the year 1889 as shown in Table III, there have been extracted 363,500,000 barrels of oil. This amount has paid the producers and royalty owners[2] $1,300,000,000. By applying the Oklahoma "production tax" of five per cent[3] to the production figures as given above, Kansas would have in forty-three years realized sixty-five million dollars from a tax on oil alone. By applying the severance tax rates from six states to the value of the oil which has been produced in Kansas within the forty-three years the following revenues would have been obtained as shown by Table IV.

TABLE IV

TOTAL REVENUES FROM $1,300,000,000 WORTH OF OIL[4]

State	Levy	Revenue
Arkansas	2½ per cent	$32,500,000
Michigan	2 per cent	26,000,000
Montana	2 per cent plus 3/8 cent per barrel	65,236,875
Oregon	½ cent per barrel	4,527,500
Texas	2-3/4 cents per barrel	25,746,250
West Virginia	3 per cent	39,000,000

Read table thus: The Arkansas rate of 2½ per cent levied against $1,300,000,000 worth of oil would yield $32,500,000 revenue.

[2] Chamber of Commerce, Progress in Kansas, (Topeka, December, 1936), p. 9.

[3] W. T. Bishop, Potential Sources of Additional Revenue from Taxation. (Topeka: Kansas State Printing Plant, 1937), p. 11.

[4] Ibid., p. 12.

Two hundred ten billion cubic feet of natural gas have been produced in Kansas.[5] If the "severance tax" rate for the following States were applied to the above amount, there would have been derived revenues as shown in Table V.

TABLE V

THE TOTAL KANSAS PRODUCTION OF 210,000,000,000 CU. FT. OF NATURAL GAS AT SIX CENTS PER ONE THOUSAND CU. FT.[6]

State	Levy	Revenue
Louisiana	3 mills per thousand cu. ft.	$630,000
Texas	3 per cent	378,000
Arkansas	2½ per cent	315,000
Michigan	2 per cent	252,000

Read table thus: A 3 per cent severance tax levied against 210,000,000,000 cubic feet of natural gas at six cents per one thousand cu. ft. would yield $378,000.

Since the State of Texas is very similar to Kansas in the matter of production and sale of oil and gas, it would seem fair to assume the "severance tax" rate of that State and apply it in future estimates in this work.[7] If that were done the revenue from oil and gas would have been $24,124,250. If this amount were divided by forty-three, the number of years which oil and gas have been produced in Kansas, there would have been collected a revenue of $558,703 annually. This amount, which might vary from year to

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[5] Loc. cit.

[6] H. H. Hughs, Competitive Position, Mineral Yearbook. (Washington, D. C., Government Printing Office, 1937), p. 1057.

[7] Loc. cit., p. 12.

year, could have been used to build better schools in the State.

Thus far only revenues from oil and gas have been discussed. They are not the only source of mineral revenue, however. As shown by Table VI, more than $81,000,000 worth of minerals were taken from the soil of Kansas in the year 1934. These must be thought of as figures during the "depression" period only. In years immediately preceding the great economic "depression"[8] the mineral wealth annually produced was in excess of $150,000,000.

TABLE VI

MINERAL PRODUCTION OF KANSAS 1934

Product	Quantity	Value
Cement barrels	2,425,867	$3,734,493
Chat short tons	88,450	18,267
Clay products	....	372,762
Coal short tons	2,508,254	4,619,000
Gypsum short tons	68,655	382,910
Lead short tons	8,605	3,794,016
Zinc short tons	58,261	
Natural gas per M. cu. ft.	46,909,000	14,119,609
Natural gasoline (gallons)	27,891,000	796,000
Petroleum barrels	46,482,000	47,850,000
Pumic, short tons	39,285	102,668
Salt short tons	768,135	2,949,930
Sand and Gravel (short tons)	1,661,619	698,461
Stone short tons	1,371,300	1,350,391
Miscellaneous	....	328,493 *
	Total	81,118,000

Read table thus: Kansas produced 2,425,867 barrels of cement at a value of $3,734,493 in the year 1934.

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[8] Kenneth K. Landes, Mineral Wealth of Kansas. Progress in Kansas (Topeka: Chamber of Commerce), October, 1936, p. 19.

* Kansas Chamber of Commerce, Mineral Wealth of Kansas. Progress in Kansas (Topeka, October, 1936), p. 19.

If a three per cent "severance tax" had been applied to the mineral wealth of Kansas in 1934, it would have yielded a revenue of $2,430,000 in addition to the revenue which was obtained. These figures, however, neglect any ad valorem tax which might have been levied.

In years just before the depression, revenue amounting to $4,500,000 could have been derived from the mineral wealth produced in the State, according to Kenneth K. Landes.[9] Mineral resources can be classified into three groups: developed, partly developed, and undeveloped. The minerals classified as developed are those whose available resources are well known and are being worked according to commercial needs. The minerals which should be classified as partially developed are those which have been discovered and are being developed but could be developed to a much greater extent. The minerals which are known to exist but which, because of a lack of knowledge of their value or bad market conditions, have not been exploited are classified as undeveloped.[10]

It cannot be assumed that all the oil pools and gas fields of Kansas have been discovered. Quite probably decades to come will find Kansas still adding to her wealth through newly discovered mineral deposits. With the development of the State's natural resources, will come an increase of population. Demands upon the wealth of the State will increase. The State cannot therefore well afford to allow the wealth of the soil to pass into foreign hands without first securing sufficient revenue from it.

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[9] Op. cit.

[10] Loc. cit.

In Table VII it will be seen that of 32,602,089 barrels of oil produced in 1935 in seventeen Kansas counties, 22,503,533 barrels were produced on properties owned by out-of-state lease owners.

TABLE VII

AMOUNT OF OIL PRODUCED IN KANSAS BY OUT-OF-STATE OWNERS OF LEASES IN 1935

County	Barrels produced	Barrels produced by out-of-state owners
Barton	443,154	146,258
Butler	2,583,182	1,473,871
Chautauqua	356,462	186,766
Cowley	755,036	575,697
Elk	438,781	302,623
Ellis	309,624	209,885
Franklin	69,472	46,104
Kingman	238,447	238,447
Lyon	47,780	28,811
Marion	436,153	281,446
McPherson	5,015,156	3,493,324
Reno	5,134,302	4,162,333
Rice	7,604,040	6,481,188
Russell	3,828,121	2,037,700
Sedgwick	1,747,903	1,153,251
Stafford	418,838	358,461
Sumner	3,180,638	1,327,354 *
Total	32,602,089	22,503,533

Read table thus: Barton county produced 443,154 barrels of oil in 1935; out-of-state lease owners produced from their holdings 146,258.

There is no doubt but that the task of estimating the value of the oil and gas and other minerals is too great for the local assessor. There have

* W. E. Sheffer, A Proposal for Levying a Severance Tax on Petroleum in Kansas, Vol. 1, No. 6, 1935 (Wichita), p. 12.

been gross inequalities committed under the <u>ad valorem</u> system of taxing these properties.

The laws of Kansas provide:

> That in valuing for taxation, oil or gas properties consisting of one or more leases and oil or gas wells, there shall, in addition to the value of all oil-or gas-well material in or upon the lease-hold properties, be made such valuation of the oil or gas well as would make a reasonable and fair value of the whole property: Provided, that such portion of the valuation of the oil and gas wells as represents the lessor's interest, or royalty interest, therein shall be assessed to the owner thereof and the remaining portion or working interest therein shall be assessed to the owners of the lease, together with the other property assessed in connection therewith.[11]

While in the above citation there is sufficient power to tax all oil and gas properties, equally, yet it is a question whether this has been done in many cases. Many local assessors are not qualified to say what is a "reasonable and fair value."

> The assessing officers have no serious trouble in assessing tangible personal property or real property, but they do experience considerable trouble in obtaining a correct assessment of property belonging to partnerships and corporation.[12]
>
> They are not acquainted with the corporation's business and consequently are not in a position to determine whether or not the assessment as returned is correct.[13]
>
> Experience has shown that in the majority of counties of the State the assessing officers do not possess the necessary experience and skill to assess this particular class of property.[14]

In determining the value of oil and gas wells in Kansas, it has been the practice of local assessors to estimate the value of oil properties by

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[11] <u>General Laws of Kansas</u>, 79-330.

[12] Tax Commission, <u>Assessment of Corporations</u>, (Topeka, Kansas State Printing Plant, 1937), p. 7.

[13] <u>Ibid</u>.

[14] Ibid.

applying a certain sum for average daily production in barrels. This was for a period immediately preceding the rendition date.[15] In assessing oil producing property the same method is applied as to any other tangible property in Kansas, an assessed valuation is placed upon the property and to this an ad valorem tax is applied, the same as to farm or other property. The assessor places an assessed valuation on the lease-hold, on the machinery and equipment and on stored crude oil which may be in storage at the time of assessment. In determining the lease-hold assessment, $375.00 is multiplied by average daily production of forty gravity oil, for every degree below forty, $375.00 is reduced by $10.00.[16]

It has been very difficult to obtain the valuation of oil properties in many counties. Interviews with County Clerks in most cases revealed that there was no division made between equipment property and property of a natural resource nature. There was nothing on the records to show how much value was placed upon wells and leaseholds and how much upon equipment. Reno county which drilled a total of 155 wells in 1937, shows a production from those wells of 80,132 barrels of oil. Out of 155 wells drilled, twenty-eight were dry and one produced gas. This county is a very good sample. The high number of dry wells drilled caused the expense of non-producing equipment to rise. The tax on equipment used in drilling in dry wells is equally as great as the equipment used in drilling in 127 producing wells. If the 80,132 barrels of oil produced could have been made to bear a greater tax, the burden could have been made lighter on non-producing equipment. The type of information which was obtained from Reno county was: Real estate

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15 Kansas Tax Code Commission, Gross Production Tax. (Topeka: Kansas State Printing Plant), 1929, p. 40.

16 W. E. Sheffer, A Proposal for Levying a Severance Tax on Petroleum in Kansas. (Wichita), 1936, p. 5.

$52,902,900.00, personal, $21,881,590.00 and utilities $12,951,052.00. No mention was made of the valuation given the dry wells and equipment or producing wells. Other producing counties were studied with much the same results as is shown by Reno county.

Greenwood county records show a complete and separate account. Oil property in Greenwood county was valued at $5,198,805 in 1937 and $5,373,363 in 1938. The amount of oil produced in Greenwood county in 1937 was 4,354,362 barrels. This amount would have yielded $130,630.86 revenue at a three per cent rate. The value of oil property as given above, $5,198,805 would have yielded $16,657.64 at the general property levy in that county of 3.91 mills. An increase of $113,973.22 revenue would have been produced by levying a three per cent "severance tax." There would be a slight difference because of the ad valorem tax which is now levied against wells and leasehold.

This study shall not in conclusion stubbornly insist that the tax burden upon natural resource industries would not increase with enactment of a "severance tax." The results of this study will show that the imposition of a "severance tax" upon the extracted minerals would return to the State and local government, a more just share of income from the natural wealth of the State, without causing an undue hardship or excess burden upon any industry.

Only a very small proportion of the citizens of the State are sharing directly in the increased wealth of the State through production of natural resources. New sources of revenue must be found and the source should be from industries of the State which are most able to bear it.

CHAPTER IV

INTRODUCTION OF THE BILL

As a conclusion to this study the bill which follows has been prepared. The purpose of the bill is to levy a severance tax upon the natural resources of the State of Kansas. Material for this bill has been gathered from many sources. Parts were taken from "House Bill Number 228" which was presented to the Kansas Legislature in 1936-37. The Gross Receipts Tax Law of Texas was used as reference in parts of the bill. The Session Laws of Arkansas for 1923 were consulted for ideas and direct material.

It is obvious to any one who is aware of the amount of wealth taken from the soil each year in the form of natural minerals that there is a direct and immediate need for such a bill to be enacted into a law.

This bill is presented in the interest of business and industry as well as for the benefit of education.

Section

1. Provisions and specifications.
2. Classification of property.
3. Property which is subject to the tax.
4. The State Tax Commission is given authority.
5. Examination by the State Tax Commission.
6. Appeal by the tax payer.
7. The delinquent tax payer who has not filed a report.
8. Penalties for fraud and non-performance.

9. Under peculiar conditions the State Tax Commission may declare the taxable period closed.

10. Final time within which the tax may be imposed.

11. The purpose of the "severance tax refund."

12. Payment by the State Tax Commission to the State Treasurer of the amount of tax collected.

13. Dispersement of funds in case of closure of the "severance tax refund," fund.

14. Judicial interpretation of the act.

15. Enactment clause.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS

AN ACT: Providing for a "severance tax" upon the gross production of oil, gas, coal, zinc, lead, salt, sand, gravel, cement, and all other natural minerals which are or may be found in the natural earth of the State of Kansas; providing for distribution thereof among the public schools of the State of Kansas; providing penalties for violation of the act and repealing Sec. 79-329 to 79-334 inclusive, of the General Statutes of 1935.

Section 1.

Any person engaged in the production of petroleum, mineral oil, natural gas or any of the above mentioned minerals,[1] within the State of Kansas, shall file with the State Tax Commission within thirty days after the expiration of the quarter annual period ending on the last day of March, 1939, and on each quarter annual period thereafter, expiring as directed on

[1] Plummer, House Bill, No. 228.

the last day of June, September, December, and March of each year, a statement under oath on forms prepared, numbered, prescribed and furnished by the State Tax Commission, showing the location of each oil or gas well, mine, quarry, pit, well or spring, operated or in any way controlled by such person during the last preceding quarter annual period,[2] the gross amount of such oil, gas, coal, zinc, lead, salt, sand, gravel, or any other natural mineral produced, and the actual cash value thereof at the place produced according to actual market prices at the day of production and such other information as the State Tax Commission may require relative to amount, price, and location of minerals produced, and shall at the same time pay a "severance tax" which is hereby levied, three per cent (3%) of the total gross market value of oil, natural gas, casinghead gas or natural gasoline, and every person who imports natural gas into the State of Kansas and thereafter sells the same in interstate commerce in this State; the tax to be imposed upon the first sale; (provided however, that if any natural gas, oil, casinghead gas or natural gas is imported into this State from another State, in which other State a "severance or gross production tax" is imposed) the person importing such natural gas, oil, casinghead gas, or natural gasoline shall not be required to pay another "severance tax" thereon, under this act.[3] It shall be further enacted that every person producing oil, natural gas, casinghead gas, or natural gasoline under this act shall be exempt two per cent (2%) of the oil, natural gas, casinghead gas or natural gasoline produced which per cent shall be for the purpose of compensating the

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[2] Ibid.

[3] George H. Sheppard, Gross Receipt Tax Laws (Austin, Texas, 1933), p. 16.

producer for evaporation loss and expense of collecting aforesaid tax.

Special rates on (a) coal: Every producer of coal shall be subject to all of the provisions of this act, except that in place of three per cent (3%) of the gross market value of said product, the producer of coal shall pay a tax of one cent (1¢), per ton on the total gross production of coal during the quarter annual period. (b) Limestone, sandstone, gravel, sand, salt, lead, zinc, and all other minerals produced in the State of Kansas shall be subject to all of the provisions of this act except that in the place of three per cent (3%) of the gross market value the tax upon the above mentioned articles shall be one and one-half ($1\frac{1}{2}$) of one per cent of the gross value of the material produced during the quarter annual period.[4]

Section 2.

The purpose of this act shall be to levy a "severance tax" upon natural resources in lieu of the present <u>ad valorem</u> tax on oil and gas and mine leases and on oil and gas wells, producing or capable of producing oil or gas in any quantity and that all other personal property such as casing, tubing, machinery, equipment, and other property used in searching for and in producing oil, gas, or any other mineral, be taxed on the present <u>ad valorem</u> basis, and that the land from which the mineral is being taken shall continue to be taxed under the regular real estate taxing rate.

Section 3.

The tax as herein levied shall attach to and is levied against any

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[4] <u>Arkansas Session Laws, Act 118</u>, 1923. (Little Rock, Arkansas), p. 2.

royalty interest, every producer liable for tax here under shall pay the tax upon the entire interest produced and shall withhold from the royalty owners the amount of such tax paid on such royalty interest.

Section 4.

The State Tax Commission is hereby given authority to make and enforce rules and regulations necessary to carry into force the provisions of this act. The books, papers, records or memoranda, of any producer as mentioned before in this act shall be open for inspection by the State Tax Commission, for the purpose of determining the correctness of reports filed by such producer. The State Tax Commission may require by subpoena the attendance of the tax payer in the county wherein the tax report was made, or where the tax payer may reside.

Section 5.

The State Tax Commission shall in a reasonable time make an examination of tax returns which have been filed, and when it shall appear that a taxpayer to whom the provisions of this act shall apply has paid more or less than the tax due during any tax-paying period either through mistake of fact or law, it shall be the duty of the State Tax Commission to credit the total amount of taxes due, by such taxpayer for the current period with the total amount of tax so wrongfully paid, and a notice shall be mailed to the taxpayer by proper mail. The taxpayer may request a hearing within thirty days in which opportunity is given for the taxpayer to furnish additional evidence relating to his tax liability. The State Tax Commission shall make a final decision based upon evidence presented at such hearing and notify the taxpayer of that decision along with a notice and demand for payment. The tax must be paid within twenty days thereafter, with interest at the rate of six per cent (6%) on the additional tax from the date the tax was due. No interest shall be paid by the State in the case of a refund because of overpayment of tax, through error of fact or law.

Section 6.

The State Tax Commission shall within thirty days mail the final determination; the said taxpayer may within the county where he resides file with the county district court an appeal. If the taxpayer be a non-resident of the State of Kansas, the appeal may be made in the district court of Shawnee County, upon posting a bond for cost in the sum of one hundred dollars, and for double the sum of the tax assessed plus interest at six per cent (6%). If appeal is to be made it shall be taken by filing with the Clerk of the District Court of the proper county, a written notice stating that the taxpayer appeals to the district court and alleging the pertinent facts upon which the appeal is based.

Upon filing of the notice of appeal, the Tax Commission shall be made a party to such appeal and the clerk of the District Court shall docket the case as a civil action, and shall forthwith issue summons and cause same to be served upon the secretary of the State Tax Commission, and according to the manner now provided by law in civil cases.

Jurisdiction in the above appeal is hereby conferred upon the district court of the State of Kansas. Such an appeal shall be heard as an equity proceeding as of original action.

Section 7.

Any taxpayer failing to file a return or pay the tax if such is due, at the time required by this act, but who shall voluntarily file a correct return or pay the tax due upon receiving the first notice, there shall be added to the tax an additional amount equal to six per cent (6%) for the time the tax is overdue in addition to any expense incurred by the State Tax Commission in making said notice.

Section 8.

Any producer, agent, principal or representative of such producer who shall knowingly make a false or incomplete report as required by this act; or who ever, as such, shall knowingly fail or refuse to make the required report or who shall destroy, mutilate, or secrete any of the records required to be kept by the provisions of this act; or whoever shall, as such, hide or secrete with intent to fraud, any of the property upon which a lien is created hereunder or whoever fails or refuses to permit the State Tax Commission or the Attorney General or any duly authorized representative of the State to inspect records or reports herein required shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of not less than twenty-five dollars ($25.00) nor more than five thousand dollars ($5,000) or confined in the county jail for not less than one month nor longer than six (6) months, or by both fine and imprisonment.[5]

Section 9.

If because of special and peculiar conditions the State Tax Commission finds that delay shall cause loss or danger of loss of tax collection they

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[5] Regular Session Laws of Texas, 1925, Law Governing Gross Production Tax on Oil. House Bill 154, (Austin, Texas), p. 5.

may at their discretion declare the taxable period closed, and issue at once a notice of demand for payment of tax found to be due. In such case, collection may be postponed if sufficient security is offered in the judgment of the State Tax Commission, to cover the amount of the tax due.

Section 10.

The full amount of taxes which is imposed by this act shall be assessed within three years.

(a) After the return is filed, court proceedings shall not be had for collection of said tax after such period of time shall have elapsed.

(b) If false, or fraudulent returns are found to have been made with intent to evade tax, or if failure to file a return, the tax may be assessed, or proceedings in court for collection of said tax may be begun at any time within three years from the time of the failure to file the required report.

(c) No refund or credit shall be allowed by the State Tax Commission upon returns which have been filed later than three years after such filing.

Section 11.

A reserve fund, which shall be known as the "severance tax refund," which shall not exceed thirty thousand dollars ($30,000), shall be set apart and maintained by the State Tax Commission from the severance tax collections within the first year. Such fund shall be held by the State Treasurer for the payment of all lawful refunds.

Section 12.

The State Tax Commission shall upon the first of every month, if that day be not a legal holiday, and if it so be then the payment shall be made next legal business day following the first day of the month, pay to the

State Treasurer the entire amount collected the previous month, less the amount withheld as provided for in Section eleven of this act. Of the amount paid to the State Treasurer, one-third of the amount collected from each county shall be paid to the County Treasurer of the county from whence the oil, gas, or other minerals came, to be apportioned among the public schools of the county upon the basis of average daily attendance per teacher basis. One-third shall be credited to the permanent school fund and one-third to the School Equalization fund of the State of Kansas to be distributed according to provision of the Equalization law and the Permanent School Fund act.

Section 13.

If in case this act is made invalid and ineffective any time after the enactment thereof the amount of money then in the "severance tax refund" shall be apportioned in the manner as provided in Section thirteen of this act. One-third to the county from which the oil, gas, or other mineral came, one-third to the Permanent School Fund of the State and one-third to the School Equalization Fund.

Section 14.

If any clause, sentence, paragraph, or part of this act for any reason shall be adjudged by any court having proper jurisdiction, to be invalid such judgment shall not affect, impair, or invalidate the remainder of this act, but shall confine its operation to the clause, sentence, paragraph, or any part thereof, directly involved in the controversy in which the aforesaid judgment was rendered.[6]

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[6] <u>Arkansas Session Laws</u>, <u>op</u>. <u>cit</u>., p. 5.

Section 15.

The State Treasurer upon receiving the tax collected for any quarter annual period shall deduct three per cent (3%) of the total tax collected for that period, the amount thereof to be used for administrative purposes of this act.

Section 16.

This act shall become effective after its appearance in the official State paper.

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Study of the severance tax question with proposed severance rates.

Tax Commission. Assessment of Corporations. Topeka: Kansas State Printing Plant. 1937. 17 pp.

Study of taxing methods applied to property of corporations.

University of Kansas. Engineering Bulletin No. 13. Topeka: Kansas State Printing Plant. 1925. 202 pp.

A survey of the production and price of petroleum and natural gas.

University of Kansas. Geological Survey. Mineral Resources of Kansas. Topeka: Kansas State Printing Plant. 1921.

A survey of mineral resources of Kansas which have not yet been developed.

Ver-Wieber, Walter A., State Geological Survey of Kansas. Oil and Gas Resources of Western Kansas. Topeka: Kansas State Printing Plant. 1938. 179 pp.

A review of oil and gas production of western Kansas counties.

Young, C. M., University of Kansas. Engineering Bulletin, No. 13. Topeka: Kansas State Printing Plant. 1929. 200 pp.

Production and distribution of minerals of Kansas in 1929.

APPENDIX A

Form 100 Register No.____

READ INSTRUCTIONS ON LAST PAGE

Name of Purchaser ____

Address ____________________ City ____________ State ________

Report for the Month of ______________________, 193____

MONTHLY REPORT OF TAXABLE CRUDE OIL PURCHASED

To Geo. H. Sheppard, State Comptroller of Public Accounts, Austin, Texas:

In compliance with House Bill No. 154 of the Regular Session of the 43rd Legislature as amended by House Bill No. 55 of the First Called Session of the 43rd Legislature and by House Bill No. 89 of the Regular Session of the 44th Legislature and by House Bill No. 8 of the Third Called Session of the 44th Legislature, I have to report the total number of barrels (42 standard gallons) of crude oil purchased from producers' leases and from purchasers who have not previously remitted the tax, in the State of Texas, based on tank tables computed to show one hundred per cent (100%) of capacity and exact measurement of contents with standard temperature corrections to 60 degrees Fahrenheit and without any deductions whatsoever for the

month of ____________________ was ____________________ barrels.

RECAPITULATION

Barrels Purchased: a. Producers Leases . . . . ________

b. Purchasers . . . . ________

Total Barrels Purchased (Column 5) . . . . ________

Barrels Taxable @ 2 3/4 ¢ per bbl. (Column 6) . . . . . . ________

Barrels Taxable on Value (Column 7) . . . . ________

TAX COMPUTATION

Gross Production Tax on ____________ Barrels @ 2 3/4 ¢ per bbl.

$________________

Gross Production Tax on $____________ @ 2 3/4 % of value ________

Regulation Pipe Line Tax on ____________ @ 3/16 of 1¢ per bbl. ______

TOTAL TAX . . . . $________

10% Penalty for Failure to Report and Remit Tax on Due Date. $________

6% Interest on Tax and Penalty to ____________, 193__, ________

TOTAL PENALTY AND INTEREST . . . . $________

GRAND TOTAL TAX, PENALTY AND INTEREST . . . . . $________

MAKE ALL REMITTANCES PAYABLE TO THE STATE TREASURER AND FORWARD TO COMPTROLLER WITH THIS REPORT

AFFIDAVIT

State of ____________

County of ____________

I, the undersigned of the within named reporting company, whose monthly report covering the purchases of petroleum oil is herein set forth, do depose and say, that the items entered in the foregoing report and any additional list or lists attached to or accompanying this report, are, to the best of my knowledge, belief, and from information as I have been able to obtain, true and correct; and that same embraces a full and complete statement as required by law, of the entire gross purchases based on tank tables computed to show one hundred (100) per cent of the actual capacity without any deductions whatsoever, at the market price paid therefor when the price is in excess of one dollar ($1.00) per barrel of petroleum oil, for the period specified.

____
Name of Company

____
Signature of Authorized Officer

SUBSCRIBED AND SWORN TO, before me, this ________ day of __________, 193__.

____
Notary Public in and for __________
County, Texas.

MONTHLY REPORT OF TAXABLE CRUDE OIL PURCHASES BY ______________________

Note: All measurements must be made on the basis of tank tables.

Name of County (1)	Name and Address of Producer Name and Address of Purchaser (2)	Name of Company Transporting Oil (3)	Name of Lease or Farm Point of Delivery (4)

_______________________________ DURING THE MONTH OF __________, 193__

compiled to show 100% of actual capacity.

Total Barrels Purchased (5)	Barrels Taxable at 2 3/4 ¢ per Barrel (6)	Barrels Taxable on Value (7)	Market Price (8)	Taxable Value (9)

GENERAL INSTRUCTIONS

THE PURCHASER OR SUBSEQUENT PURCHASER MUST FILE HIS REPORT FORM 100 WITH THE COMPTROLLER OF PUBLIC ACCOUNTS AND REMIT GROSS PRODUCTION TAXES ON OR BEFORE THE 25th DAY OF THE MONTH COVERING CRUDE OIL PURCHASES FOR MONTH NEXT PRECEDING.

This report form shall be used by the purchaser in preparing summaries by counties of their monthly settlement sheets.

Under Column No. 1, list counties separately and in alphabetical order.

a. Under Column No. 2, list the names of the operators in each county in alphabetical order. When the receiver or trustee is operating property, list such item under name of company and show name of receiver.

b. Under Column No. 2, list names of the purchasers from whom oil has been purchased and the tax has not been assumed by the previous purchaser.

Under Column No. 3, show name of pipe line, railroad, or truck line transporting oil.

a. Under Column No. 4, show name of lease and list of each operator's leases in alphabetical order.

b. Under Column No. 4, show name and location of the point where oil was delivered by the previous purchaser.

Under Column No. 5, show total barrels of oil received from each lease, or previous purchaser.

Under Column No. 6, show total barrels of oil purchased at less than $1.00 per barrel.

Under Column No. 7, show total number of barrels purchased for more than $1.00 per barrel.

Under Column No. 8, show the market value of oil when same is in excess of $1.00 per barrel.

Under Column No. 9, show taxable value of all oil when price is in excess of $1.00 per barrel. The taxable value shall be computed as follows: Total gross barrels times the market price.

All computations must be on the basis of tank tables to show 100% of actual capacity and an exact measurement of contents with standard temperature corrections to 60 degrees Fahrenheit.

GENERAL INSTRUCTIONS (cont.)

In the event that the producer and purchaser are the one and same company, both report forms 100 and 200 must be filed.

THE PURCHASER SHALL DEDUCT AND REMIT THE TAX ON ALL OIL PURCHASED FROM RECLAMATION AND SALVAGE PLANTS, AND ON OIL RECEIVED FROM PURCHASERS OR PERSONS WHO HAVE NOT PREVIOUSLY REMITTED THE TAX.

THE REGULATION PIPE LINE TAX OF 3/16 OF 1¢ PER BARREL SHALL BE PAID ON THE TOTAL GROSS BARRELS OF OIL RECEIVED.

THE PURCHASER OR SUBSEQUENT PURCHASER SHALL BE LIABLE FOR A FINE OF NOT LESS THAN $25.00 NOR MORE THAN $5,000 OR CONFINEMENT IN THE COUNTY JAIL FOR NOT LESS THAN 30 DAYS AND NOT MORE THAN SIX MONTHS OR BY BOTH SUCH FINE AND IMPRISONMENT FOR THE FAILURE TO FILE REPORT FORM 100 AS PRE-SCRIBED BY LAW.

FORM 200

Register No.___

READ INSTRUCTIONS ON LAST PAGE

Name of Producer ____

Address ____

Report for the Month of ________________________, 193____

MONTHLY PRODUCTION REPORT

In compliance with House Bill 154 of the Regular Session of the 43rd Legislature as amended by House Bill 55 of the First Called Session and H. B. 43 of the Second Called Session of the 43rd Legislature, and as amended by H. B. 8 of the 3rd Called Session of the 44th Legislature I have to report the Total Number of Barrels (42 Standard Gallons) produced, delivered and stored in the State of Texas, based on Tank Tables computed to show 100% Capacity and without any deductions whatever, by

____

For the Month Ending was __________ barrels with an actual market value of $______________

PRODUCER MUST REMIT THE TAX ON ALL OIL WHICH HAS BEEN STORED OR USED

COMPUTATION OF THE TAX

Lease Stock on Hand First Day of Month . . . . __________ Barrels

Total barrels Produced . . . . __________

Deduct:

Oil Sold -- Current Month Production . . . . __________

Oil Sold -- From Lease Tanks . . . . __________

Total Oil Sold Taxable to Purchaser . . . . __________

Oil Placed in Storage or Used . . . . __________

Oil Placed in Storage for Others . . . . __________

Total Deliveries of Oil . . . . __________

Balance on Hand in Lease Tanks -- End of Month (Not Taxable) __________

Total Barrels Stored or Used . . . . __________

Value of Oil Stored or Used . . . . $__________

Gross Production @ 2 3/4¢ per bbl. . . . . $__________

Gross Production Tax at 2 3/4% of Value when value is in excess of $1.00 per bbl. . . . . __________

Regulation Pipe Line Tax @ 3/16 of 1¢ per bbl. . . . . __________

Total Tax . . . . __________

10% Penalty for Failure to Report at Proper Time . . . __________

6% Interest on Tax and Penalty to __________ 193___ __________

GRAND TOTAL TAX, PENALTY, & INTEREST __________

AFFIDAVIT

THE STATE OF ____________________

COUNTY OF ____________________

____________________________ Being duly sworn, states that he is ________________ of ____________________ with offices at ____________ ________________; that the foregoing reports show the total amount of oil produced and the disposition of same without any deductions whatever, by ______________________ during month of _______________, 193____, and the actual market value of said production during said month and that said statements are true and correct.

____

Sworn to and subscribed before me this ______________ day of __________, 193____.

____

Notary Public in and for _______________

(Seal) County, Texas.

DETAIL STATEMENT OF PRODUCTION BY THE PRODUCER ______________________

Note: All Computations will be made on the basis of 100% of Gross Production.

Name and Address of Purchaser	Location of Production		Gross Production		
	County	Name of Lease	Beginning Stock	Production for Month	Total Barrels to account for

________________ FOR THE MONTH OF ________________ 193__

Disposition of Crude Oil							LOCATION OF STORAGE
Oil Sold		Oil Used		Oil Stored		Closing Stock	
Barrels	Value	Barrels	Value	Barrels	Value		

INSTRUCTIONS

FORM 200

PRODUCER MUST FILE HIS GROSS PRODUCTION REPORT FORM 200, WITH THE COMPTROLLER OF PUBLIC ACCOUNTS, ON OR BEFORE THE TWENTY-FIFTH DAY OF THE MONTH, SHOWING GROSS AMOUNT OF OIL PRODUCED FROM THE LEASES WHICH HE IS OPERATING AND THE DISTRIBUTION OF SAID PRODUCTION FOR THE MONTH NEXT PRECEDING

In instances where the Receiver or Trustee is managing the properties the report will be filed under the name of the company, showing the name of the Receiver or Trustee.

In the column marked "Name of Purchaser" the producer will show name and address of the purchaser, listing same in alphabetical order.

In the column marked "County" the producer will list the names of the counties in alphabetical order where the purchaser is purchasing oil in one or more counties.

In the column marked "Name of Lease" show the name of the lease, using the same lease name under which the purchaser makes payment for oil purchased.

In the column marked "Gross Production" show the gross production of oil produced from the individual leases, making all computations on the basis of tank tables computed to show 100% actual capacity.

In the column marked "Oil Sold" show the total number of barrels and value of oil sold to each separate purchaser.

In the column marked "Oil Used" show the total number of barrels and value of oil which has been consumed in the operation or on the lease during the month covered by this report.

In the column marked "Oil Stored" show the total number of barrels and value of oil placed in storage, which has not been sold during the month produced.

In the column marked "Location of Storage" show the location of the storage and name and address of the persons owning the storage tanks or facilities for storing.

ON FORM 202 THE PRODUCER WILL SHOW ALL OIL WHICH HE HAS SOLD FROM STORAGE ON WHICH THE TAX HAS BEEN REMITTED AND FILE SAID REPORT ON OR BEFORE THE 30th DAY OF THE SUCCEEDING MONTH.

OIL IN LEASE STOCK TANKS OR FLOW TANKS AT THE CLOSE OF THE MONTH IS NOT CONSIDERED AS STORAGE OIL AND THE PRODUCER WILL NOT REMIT THE TAX ON SUCH OIL.

THE PRODUCER MUST REMIT THE TAX ON ALL OIL WHICH HAS BEEN PLACED IN STORAGE AND NOT SOLD DURING THE MONTH COVERED ON THIS REPORT AND ALSO ON THAT OIL WHICH HAS BEEN CONSUMED IN THE OPERATION OR ON THE LEASE DURING THE MONTH COVERED BY REPORT.

REGULATION PIPE LINE TAX MUST BE REMITTED ON ALL OIL WHICH HAS BEEN STORED OR USED DURING THE MONTH COVERED BY REPORT.

THE PRODUCER IS LIABLE FOR A FINE OF NOT LESS THAN $25.00 NOR MORE THAN $5,000.00 OR CONFINEMENT IN THECOUNTY JAIL FOR NOT LESS THAN ONE MONTH NOR MORE THAN SIX MONTHS OR BY BOTH SUCH FINE AND IMPRISONMENT FOR THE FAILURE TO FILE FORMS 200 OR 202, AT THE TIME PRESCRIBED BY LAW.

OFFICE MEMORANDUM	FIELD MEMORANDUM
DATE ______________________, 193___	DATE ______________________, 193___
FILE ______________________________	FILE ______________________________
AMOUNT OF CLAIM __________________	AMOUNT OF CLAIM __________________
	PAID BY ___________________________
SUPERVISOR _______________________	SUPERVISORS ______________________

FORM 202

Page 1 of ______ Register No. ____

Name of Producer ______________________________

Street Address ______________ City ______________ State ______

Storage Transactions during the Month of ______________ 193___

MONTHLY REPORT SHOWING DELIVERIES MADE FROM STORAGE

UPON WHICH TAX HAS BEEN PAID BY PRODUCER

TO: GEORGE H. SHEPPARD, COMPTROLLER OF PUBLIC ACCOUNTS,

AUSTIN, TEXAS.

In compliance with rules and regulations covering enforcement of House Bill 154, I am submitting a report showing sales of oil from storage on which tax has been remitted.

INSTRUCTIONS

This report must be filed with the Comptroller on or before the 30th day of the month showing oil sold from storage during the month next preceding.

List all transactions concerning deliveries of crude oil from storage separately.

List names of purchasers in alphabetical order.

In such instances where the oil in storage is destroyed by fire, or otherwise, account for same in the reconciliation, giving details concerning such losses where losses are other than shrinkage and evaporation.

FORM 202 (cont.)

Name and Address of Purchaser	Location of Storage	Date Tax Paid	Barrels Sold	Value
Totals				

RECONCILIATION OF STORAGE ACCOUNT

	Barrels	Value	Barrels	Value
Beginning Inventory				
Current Production Stored as per Form 200 (net barrels)....				
Total Storage to account for				
Deduct:				
Oil Sales from Storage as shown above				
Losses due to various cause				
Miscellaneous Deliveries, etc....				
Total deliveries				
Closing inventory				

AFFIDAVIT

County of ______________________
State of ______________________

I, the undersigned, of the within named reporting company, whose monthly report covering sales of oil from storage on which tax has been paid by producer, is herein set forth, do depose and say that the items entered in the foregoing report and in any additional lists or supplements attached to or accompanying this report, are, to the best of my knowledge and belief, and from such information as I have been able to obtain, true and correct; and that the same embraces a full statement as required by the rules and regulations promulgated by the Comptroller of Public Accounts.

____
Name of Company

____
Name of Person authorized
to make report.

Subscribed and sworn to before me this the ____________________

day of ____________________, 193___.

____

(Seal) Notary Public ________________ County _____

Form 300-302 Combined

MONTHLY REPORT
TO THE OKLAHOMA TAX COMMISSION

OF Gross Production Tax deducted and paid by Purchasers of Petroleum Oil, Natural Gas or Casinghead Gas---and of the Tax for Proration Fund on the production of Petroleum Oil in the State of Oklahoma to be computed at One-eighth of One Cent per Barrel, based upon 42 U. S. gallons of 231 cubic inches per gallon at a temperature of 60 degrees Fahrenheit for oil measurement.

This form shall be used only by purchasers in preparing summaries by COUNTIES, of their regular Monthly Settlement sheets submitted herewith in compliance with the existing laws.
MAKE SEPARATE REPORT FOR EACH COMMODITY PRODUCED IN EACH COUNTY.

Name of Purchaser ______________ Address ______________
Covering Purchase of ______________ for the month of ______________
193__, produced in ______________ County

THIS REPORT MUST BE SWORN TO AND COMPLETE IN DETAIL

Name of Producer or Operator	Location of Property					Quantity Bbls. or M. Cu. Ft.	Gross Value Including Premiums	
	Lease	Qtr.	Sec.	Twp.	Rge.			
							$	
Total forwarded								

Form 300-302 Combined (cont.)

Total Gross Production Tax remitted to Oklahoma Tax Commission

______________________________ $______________

Total Tax for Proration Fund remitted to Oklahoma Tax Commission

______________________________ $______________

Total ____________________ Make Separate Check for each Tax.

AFFIDAVIT

State of ________________

County of ________________

I, the undersigned, of the within named ______________________,

depose and say, that the items entered in the foregoing monthly report, together with any list or lists accompanying, or attached to this report, are, to the best of my knowledge and my belief, true and correct, and is a complete statement as required by existing laws, for the period specified.

____

Signature Title

Subscribed and sworn to, before me, this ____________ day of

________________, 193___.

My commission expires ______________________________

______________________________ Notary Public.

OTC Form 303-R

SUMMARY REPORT
OKLAHOMA TAX COMMISSION
GROSS PRODUCTION TAX

Paid by ______________________ ______________________
Name Address

On ______________________ Run in ______________________ 193___
Oil or Gas Month

County	Bbls. or M. cu. ft.	Value	Tax	Proration Tax	Remarks
Atoka					
Suspense					
Totals					

APPENDIX B

PRODUCTS OF CRUDE OIL

One barrel (42 gallons) mixed Kansas Crude Oil, 39.6 degrees A.P.I. yields upon distillation:

Product	Per Cent	Gallon	Rate	Value
Gasoline	32%	13.14 . . .	4-3/4 ¢ . .	.6241 ¢
Naphtha	7%	2.94 . . .	5-3/8 ¢ . .	.1580 ¢
Kerosene	10%	4.20 . . .	3½ ¢ . . .	.1470 ¢
Gas Oil	11%	4.62 . . .	2½ ¢ . . .	.1155 ¢
Light Wax	21%	. . . . . .	. . . . . .	. . . . . .
Heavy Wax	3%	. . . . . .	. . . . . .	. . . . . .
Cylinder Stock . . .	8%	. . . . . .	. . . . . .	. . . . . .
Bottoms	8%	. . . . . .	. . . . . .	. . . . . .

"Prices quoted are wholesale prices at the refinery and do not include federal or state tax.

"Ordinarily the gas oil fraction listed above is cracked to yield more gasoline, some fuel oil and a small amount of gas and petroleum coke.

"A Dubbs cracking unit operating on a Kansas Gas Oil will produce about 67% gasoline, 28.5% furnace or Diesel oil (3½¢ per gallon), balance coke and gas. The coke yield will run about 0.05 lb. per barrel of oil charged. The gas is usually burned under the refinery stills, but some refineries now send it to a polymerization unit to convert it to high grade gasoline."*

---

* Letter, W. Lawrence Faith, Professor of Chemical Engineering, Kansas State College of Agriculture and Applied Science, dated December 8, 1936.

TABLE

FIGURES AFFECTING THE PRICE OF PRODUCTION
OF OIL IN
1937

State	Completions	Production	Dry	Gas
Arkansas	182	68,495	78	1
Alabama	2	......	2	0
California	1,478	617,766	314	17
Colorado	37	900	23	2
Florida	1	......	1	0
Illinois	392	80,282	117	3
Indiana	144	554	68	39
Kansas	2,590	1,479,293	606	117
Kentucky	834	14,313	234	193
Louisiana	1,113	178,572	306	148
Michigan	932	317,716	277	69
Mississippi	26	......	23	3
Montana	217	12,810	56	26
Nebraska	3	......	3	0
New Mexico	665	541,861	64	27
Oklahoma	2,672	677,156	697	123
Ohio	735	1,137	281	364
Texas	15,407	3,914,262	2,860	279
Utah	4	......	2	2
Wyoming	127	40,745	43	12 *

Read table thus: Arkansas drilled to completion 182 wells in 1937 with a total production of 68,495 barrels. 78 of the wells were dry, 1 produced gas.

* James McIntyre, Year Established New Mark, (Oil and Gas Journal, Jan. 1938, Tulsa, Oklahoma), p. 62.