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AN ANALYSIS OF THE SEVERANCE TAX

being

A Thesis Presented to the Graduate Faculty

of the Fort Hays Kansas State College in

Partial Fulfillment of the Requirements for

the Degree of Master of Science

by

Max F. Dougherty

Fort Hays Kansas State College

Date July 21, 1959

Approved John D. Garwood
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ABSTRACT

The purposes of this thesis are to examine the strengths and weaknesses of the severance tax, to study the methods of administering the severance tax and to examine the severance tax history of Kansas.

The arguments favoring a severance tax are presented in Chapter II. These include the argument that natural resources are a gift of nature and should be shared by all the people, a severance tax would be the compensating factor to the state for allowing individuals to enjoy the gifts of nature; a severance tax allows the state to participate in socially created values; producers have the ability to pay; other states have severance taxes; most profits are taken out of the state and a severance tax would hold some of these profits for the benefit of the people of the state; and the severance tax is easy to administer.

The arguments against a severance tax are discussed in Chapter III. The arguments against a severance tax are that the severance tax would discriminate between the states, between the independent and major oil producers and between mineral industries of the state if enacted in Kansas; the state economy would suffer because of nonrenewal of wildcat oil leases; producers of marginal wells would be hurt if they had to pay a severance tax; the tax would drive the oil industry out of the state; oil and gas producers are already overtaxed; the tax would disrupt local taxing units in counties which have oil production; the tax will be passed on to the consumer; no account is taken of production expenses; and finally that some counties will pay and others will not.

Chapter IV is devoted to the severance tax experience in Kansas. This chapter includes a history of severance tax proposals which have been introduced in the state legislature and a history of the work done by the State Legislative Council in dealing with a severance tax for Kansas. The Kansas severance tax law is presented, its revenue producing ability is discussed and the reasons for declaring it unconstitutional are given.

The severance tax laws of states are discussed in Chapter V. A severance tax on oil is most widely used by the states which have severance tax laws. Other severance taxes include taxes on natural gas, taxes on mining and ores, taxes on timber, taxes on fish and oysters, taxes on sulphur, and taxes on sand, gravel and stone. Severance tax collections peaked at 388 million dollars in 1957, but fell to 376 million dollars in 1958.

Finally in Chapter VI an attempt is made to draw together some of the main findings which stem from the preceding chapters. The severance tax is increasing in popularity. At present twenty-eight states have some type of severance tax. When the arguments for and against a severance tax are given careful consideration, it is the conclusion of the writer that the arguments for outweigh those against.

If Kansas legislators would work out a severance tax system which is in lieu of the ad valorem property taxes and one which provides for the exemption of marginal producers, it is the writer's opinion that it would be passed into law.

The severance tax fits all the qualifications of a good tax such as ability to pay. It represents a just charge for the privilege of severing resources which are a heritage of the people. It is also easy to administer as well as representing a new source of revenue.

ACKNOWLEDGMENTS

The writer wishes to express sincere appreciation to Dr. John D. Garwood, under whose supervision the thesis was written, and to the other members of the Graduate Committee, Dr. Leonard W. Thompson, Dr. Ivan L. Richardson, Mr. Richard L. Osborne, and Mr. Don B. Slechta for their advice and assistance during the writing of this paper.

M. F. D.

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CHAPTER I

THE PROBLEM AND METHODS OF RESEARCH USED

In the past fifty years federal and state governments have grown from rather small government units to units of tremendous proportions. This rapid growth of government caused a need for more operating revenue. To get this revenue governments must increase present taxes or use new taxes. This holds true for both national, state, and local governments.[1]

One great difficulty for a state government is the fact that it is limited in the selection of taxes it may use. There are federal limitations on the states' powers to tax. Thus states may not levy export and import duties or tonnage taxes "without the consent of Congress", and they are excluded from taxing interstate and foreign commerce.[2] Many taxes which states may use are small revenue producers and are uneconomical to administer because of the high cost of proper enforcement.

Some states have levied severance taxes on the natural resources within the state in the quest for more revenue. States which are rich in minerals, forests, and petroleum are best suited for this tax. At the present time, twenty-eight states in the United States levy some type of severance tax.[3]

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[1]Harold M. Groves, Financing Government (New York: Henry Holt and Company, 1958), p. 435.

[2]Ibid., p. 402.

[3]United States Department of Commerce, Bureau of Census, Detail Of State Tax Collections In 1958 (Government Printing Office, 1958), pp. 4-28.

I. THE PROBLEM

Statement of the problem. The purposes of this study are several, i.e., to examine the strengths and weaknesses of the severance tax, to study the methods of administering the severance tax, and to examine the severance tax history of Kansas.

The severance tax is widely used but varies greatly as to the amount of revenue it will produce for a given state. Before a state can levy a severance tax, some natural resource for which there is a demand, must be located within that state. This is a factor that dictates which states will use the tax. This study notes the states which use the severance tax; products on which it is levied; and finally the productiveness of the tax where it is used.

Limitations and Scope. The study of the severance tax includes the taxes on all natural resources. The severance tax on oil and natural gas will be emphasized in this study because they are the two resources which provide the most revenue in the severance tax field and are most widely used as a tax base.

II. METHODS OF RESEARCH USED

The severance tax is important to state governments of states which are rich in natural resources because it is a new source of revenue.[4] It is a tax that is collected from relatively few people, i.e., those who produce the natural resources.

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[4] *Ibid.*, p. 308.

Sources of information include the Kansas Independent Oil and Gas Association, the Kansas Farm Bureau, the Kansas State Teachers Association, the Kansas State Librarian, the Kansas State Legislative Council, and material from Forsyth Library.

Data dealing with Kansas was found in the *Kansas Legislative Journals*, Reports from the Kansas Legislative Council, *The Kansas Statutes*, Reports of the Kansas Farm Bureau, the Special Reports on the Severance Tax by the Kansas State Teachers Association, Studies by the Kansas Independent Oil and Gas Association, newspapers, and sources in Forsyth Library.

The information from the states which have the severance tax was procured by writing to the State Department of Taxation of each state.

III. DEFINITIONS OF TERMS USED

Severance Tax. The word severance in taxation was first used by Louisiana to designate a tax imposed on the taking of natural resources from their natural state in the soil or water.

> . . . a severance tax can be defined as a levy imposed directly or indirectly on the process of severing natural resources from their natural state and furthermore, imposed for the purpose of securing revenue beyond that necessary to pay for any immediate benefits which the state confers upon those exploiting its resources.[5]

Gross Production Tax. Another name for the severance tax is the gross production tax along with other names, such as privilege taxes

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[5]J. D. Morgan, "Severance Taxes," *Your Business Bulletin of the Bureau of Business Research* (Lawrence: University of Kansas, May 15, 1948), p. 5.

and occupation taxes.[6] All of the states do not use the same name in referring to this tax.

IV. PROCEDURE IN REPORTING THE STUDY

The research problem is presented in six chapters. Chapter I is an introduction which includes a statement of the problem, limitations, and scope of the study, methods of research used, and definitions of terms used.

Chapter II presents the arguments favoring the severance tax. Information regarding severance tax revenue for the various states is included.

Chapter III deals with the arguments against the severance tax and information to support this stand is presented.

Data in regard to the severance tax in Kansas is discussed in Chapter IV. Problems and the history of the severance tax in Kansas are outlined. The Kansas severance tax law and the revenue producing ability of the law is discussed. Reasons for declaring the law unconstitutional are presented.

Chapter V deals with other states which have a severance tax. The various types of natural resources which are taxed are discussed and the different states rates are outlined.

The conclusions of the study are given in Chapter VI.

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[6] Jens P. Jensen, Government Finance (New York: Thomas Y. Crowell Company, 1937), p. 350

CHAPTER II

ARGUMENTS FOR THE SEVERANCE TAX

As a government increases its services there is an increasing need for more revenue. State governments may use the ad valorem or property tax, the income tax and the retail sales tax as chief sources of revenue along with certain "other" taxes. Included in "other" taxes is the severance tax.

If the state is rich in minerals or forests the severance tax may be a large revenue producer, but there is a tendency for the revenue from this tax to fluctuate because of varied amounts of mineral production at different times.

The proponents of the severance tax say that in dealing with natural resources which are destructible and not reproducible, such as crude oil, natural gas, forests and minerals, conservation is of major importance.[1] The severance tax will promote conservation because no tax is levied unless the minerals or natural r sources are exploited. The ad valorem taxes will cause the exploitation of natural resources to be increased because the tax is levied as long as the valuable resources are on the property. This is one argument for the severance tax that doesn't mention revenue.[2]

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[1]Harold M. Groves, Financing Government (New York: Henry Holt and Company, 1955), p. 298.

[2]J. D. Morgan, "Severance Taxes," Your Business Bulletin of the Bureau of Business Research, University of Kansas (Lawrence: University of Kansas, May 15, 1938), p. 6.

A Heritage of the People. Many people contend that the natural resources are a gift of nature and therefore should be shared by all the people, not just the few who have an interest in the land and production of the minerals.[3]

Most of the natural resources which are severed from the earth are of the type which will be lost forever because they take millions of years to be produced by nature. Using this reasoning, some people contend that we should place the receipts from taxes on the severed resources in investments which would be of benefit to future generations as well as to the present generation.[4] For example the tax receipts might be spent for building schools or hospitals.

The fact that these resources are disappearing means that the resources already produced have been lost as a tax source and the resources left are steadily declining and will not always remain available as a tax base. Tables I and II show the increases or decreases in the amount of proved reserves of crude oil and natural gas by states. Natural gas reserves are still increasing due to new discoveries but crude oil reserves did not increase in 1957. According to the American Petroleum Institute Committee on Petroleum Reserves the estimated proved reserves of crude oil in the United States were 30.3 billion barrels on December 31, 1957.[5] This estimate is one-hundred and thirty-five million barrels

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[3]Groves, op. cit., p. 303.

[4]Morgan, op. cit., p. 7.

[5]United States Department of the Interior, Bureau of Mines, 1957 Minerals Yearbook Vol. II Fuels (Washington: Government Printing Office, 1959), p. 354.

TABLE I

ESTIMATES OF PROVED OIL RESERVES IN THE UNITED STATES, ON DECEMBER 31, BY STATES*

(millions barrels)

State	1950	1951	1952	1953	1954	1955	1956	1957
Eastern States:								
Illinois	564	646	619	625	658	691	700	655
Indiana	57	51	56	62	67	62	68	67
Kentucky	56	59	56	82	85	107	149	138
Michigan	79	64	57	61	60	59	55	49
New York	59	57	53	49	46	43	40	37
Ohio	27	26	27	32	37	56	64	68
Pennsylvania	106	95	122	111	102	93	135	126
West Virginia	39	39	37	36	37	47	51	53
Total	987	1037	1027	1058	1092	1158	1262	1193
Central and Southern States:								
Arkansas	342	337	352	358	351	330	318	305
Kansas	732	792	917	913	979	998	992	947
Louisiana	2185	2285	2558	2760	2962	3255	3675	3858
Mississippi	386	385	359	360	412	388	268	360
Nebraska	10	15	22	26	38	57	63	63
New Mexico	592	612	733	815	806	820	836	832
North Dakota	---	5	76	128	134	185	195	258
Oklahoma	1397	1476	1558	1752	1955	2016	2010	1941
Texas	13581	15315	14916	14999	14982	14934	14783	14555
Total	19225	21223	21491	22101	22619	22983	23241	23119
Mountain States:								
Colorado	339	325	306	319	329	334	364	310
Montana	111	108	156	209	272	299	331	320
Utah	22	30	42	38	36	37	61	140
Wyoming	841	973	1065	1279	1304	1374	1363	1420
Total	1313	1436	1569	1845	1941	2044	2119	2190
Pacific Coast:								
California	3734	3761	3854	3920	3889	3801	3771	3760
Other States	9	11	20	21	20	26	42	38
Total United States	25268	27468	27961	28945	29561	30012	30435	30300

*Includes crude oil that may be extracted by present methods from fields completely developed or explored enough to permit reasonably accurate calculations. The change in reserves during any year represents total new discoveries, extensions and revisions, minus production.

*(From United States Department of the Interior, _Minerals Yearbook 1957_.)

TABLE II

ESTIMATED PROVED RECOVERABLE RESERVES OF NATURAL GAS IN THE UNITED STATES AS OF DECEMBER 31, 1957*
(in million cubic feet)

State	1956	1957
Arkansas	1,171,527	1,283,022
California	8,751,233	8,952,893
Colorado	2,422,769	2,380,679
Illinois	219,705	166,372
Kansas	17,566,257	19,295,978
Kentucky	1,245,602	1,225,045
Louisiana	45,053,999	51,435,954
Michigan	361,786	444,028
Mississippi	2,403,326	2,297,740
Montana	696,351	670,450
Nebraska	225,402	189,339
New Mexico	23,472,707	22,258,009
New York	85,249	93,382
North Dakota	397,493	743,432
Ohio	853,607	901,814
Oklahoma	13,775,049	14,259,480
Pennsylvania	776,212	853,595
Texas	112,728,750	113,084,518
Utah	619,785	859,294
Virginia	35,557	37,521
Wyoming	3,235,932	3,457,433
Other States	80,761	87,395
Total	237,774,569	246,569,255

* (From the United States Department of the Interior, Minerals Yearbook 1957.) p. 307.

less than in 1956 and the first drop in proved reserves since 1943. These estimates apply only to oil recoverable under existing economic and operating conditions.

The American Gas Association on Natural Gas Reserves reported on December 31, 1957 that reserves of proved recoverable domestic natural gas totaled 246.6 trillion cubic feet which was an increase of 8.8 trillion over reserves December 31, 1956.[6]

Some states justify the severance tax as a compensating factor to the state for allowing individuals to enjoy the "gifts of nature."[7] This "compensatory" theory is used by the Federation of Tax Administrators to justify the severance tax.

In 1929 the Kansas Tax Code Commission said:

> We are, however, of the opinion that the imposition of a tax on the privilege of extracting certain mineral products would return to the state, the creator and guarantor of property rights, a definite and just share of the income without creating any undue hardships or excessive burden on industry.[8]

The United States Tariff Commission has this to say about petroleum taxation:

> There appear to be reasons justifying special taxation of petroleum products. . . .The Severance tax on production enables the governments of states which produce large quantities of crude oil to obtain revenue in return for the removal of a part of their underlying and irreplaceable resources. . . . In many foreign countries taxes on petroleum are much higher than in the United States.[9]

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[6] _Ibid._, p. 306.

[7] Kansas State Teachers Association, _Should Kansas Have a Severance Tax?_ (Topeka: Kansas State Teachers Assocatinn, 1948), p. 2.

[8] Kansas Tax Code Commission, _Report of the Kansas Tax Code Commission to the Governor_ (Topeka: Kansas Tax Code Commission, December 1, 1929), p. 43.

[9] United States Tariff Commission, _War Changes in Industry Series_, Report No. 17, 1946 (Washington: Government Printing Office, 1946).

Two Real Reasons for the Severance Tax. According J. D. Morgan two real reasons favoring the severance tax are:

> First, such a tax provides the state an opportunity to participate in socially created values, values which are not necessary for the operation of our economic system and values which arise only because of the density of population. In short, the state may get some of the pure economic rent of land. If, however, the state chooses to do this, then it should be sufficiently courageous to go all the way and to tap economic rent whereever it is found. This would involve taxing farm land and other real estate over and above the general property tax. Unfortunately for the state, these economic rents have usually been reflected in higher prices paid for such property by the present owner. Where this is true, the severance tax would in reality constitute a capital levy on those individuals or business that happened to own the resources subject to severance.
>
> The state might use a severance tax as a conservation measure, the object being to raise prices so as to limit consumption, but not as suggested by Louisiana to get funds to build up submarginal soil. Such a social responsibility is separate and distinct from revenue productivity of a severance tax.[10]

Ability to Pay. It is argued that if producers in other states can pay a severance tax on oil, gas, and other minerals ranging up to about 10 per cent of the gross value of the products and still produce profitably, then producers in a state without a severance tax surely have the ability to pay.

It is alleged that there is a need for more revenue, the best place to get it is the source with the most ability to pay. With the present federal tax laws allowing for the deduction of depletion as an expense and the difficulty of the administration of the law, the amounts held to be deductible are sometimes excessive. It has been said that the

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[10] Morgan, *op. cit.*, p. 7.

one way "to make millions" and not run afoul of the federal revenue department is to own an oil well.[11]

<u>Other States Have The Severance Tax</u>. Today twenty-eight states have a severance tax of some type. Proponents of the severance tax say that if a state without the severance tax does not levy one the state will be not only losing a source of revenue but will be subsidizing out of state producers. Kansas has a situation like this. Kansas exports oil and natural gas whose price is determined on the open market. When it is sold out of state the producer makes an extra profit on the Kansas oil and natural gas whose price is determined on the open market. When it is sold out of state the producer makes an extra profit on the Kansas oil as compared to oil he sells that is produced in a state with a severance tax. Table III presents oil prices by states.

Kansas also has to import natural gas from states which have severance taxes so it is argued that Kansas exports oil and natural gas severance tax free, while it imports natural gas from states where a severance tax is levied, thus it is alleged Kansans have to pay a severance tax on these imports.[12]

The fact that Kansas has no severance tax does allow oil producers of this state to have a wider profit margin on production in some cases than the same producers make in states with severance taxes.

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[11]Groves, *op. cit.*, p. 317.

[12]Kansas State Teachers Association, *op. cit.*, p. 7.

TABLE III

VALUE OF CRUDE PETROLEUM AT WELLS IN THE UNITED STATES, 1957, BY STATES.*

State		Total Value at Wells (thousands dollars)	Average Value per Barrel
Arkansas		$ 89,343	$2.92
California		1,035,920	3.05
Colorado		165,698	3.02
Illinois		244,227	3.12
Indiana		40,249	3.13
Kansas		336,332	3.01
Kentucky		52,831	3.13
Louisiana:	Gulf Coast	922,650	3.33
	Northern	149,451	3.24
	Total Louisiana	1,072,101	3.32
Michigan		31,117	3.06
Mississippi		114,078	2.91
Montana		73,481	2.70
Nebraska		58,368	2.98
New Mexico:	Southeastern	275,798	2.99
	Northwestern	7,330	2.91
	Total New Mexico	283,128	2.99
New York		12,662	4.73
North Dakota		42,699	3.13
Ohio		17,594	3.23
Oklahoma		651,786	3.03
Pennsylvania		38,687	4.73
Texas:	Gulf Coast	723,193	3.41
	East Texas proper	226,506	3.20
	West Texas	1,393,362	3.00
	Other Districts	1,026,310	3.05
	Total Texas	3,369,371	3.11
West Virginia		9,436	4.26
Wyoming		283,599	2.66
Other States		26,697	2.65
Total United States		$8,079,504	$3.09

*United States Department of the Interior, Bureau of Mines, 1957 Minerals Yearbook Vol. II Fuels (Washington: Government Printing Office, 1959), p. 393.

Most profits are taken out of state. It is argued that most of the oil and gas in Kansas is produced by foreign corporations and the profits that are made on the oil will leave the state. If Kansas had a severance tax, it could keep some of this income from its own resources.

It is a fact that Kansas would gain more revenue from oil and gas if it had a severance tax, but it would be taking more away from local producers because independent oil producers produce more oil in Kansas than do the major oil companies.[13]

Nevertheless, it seems reasonable for a state to share in the income received for the sale of natural resources of the state. The fact that much of the profit from oil produced in Kansas leaves the state strengthens the idea of a severance tax to retain some of this profit.

Ease of Administration. The severance tax is easy to administer because of its simplicity. The tax may be levied on all resources severed from the earth. A percentage is levied on the gross production of oil or other minerals and the producers of the resources simply pay the tax on the portion they produce. There is no problem of assessment as there is with a general property tax. Most states apply the gross production taxes to properties producing natural resources.[14] Table IV gives the breakdown of the states using the severance tax and the amount of revenue it raises for each state. Several of the states

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[13]Kansas Independent Oil and Gas Association, Taxes on Oil and Gas Properties in Kansas (Wichita: Kansas Independent Oil and Gas Association, 1957), p. 7.

[14]Groves, loc. cit.

TABLE IV

SEVERANCE TAX REVENUE BY STATE: 1957*
(In thousands of dollars)

State	Collections 1957	Severance Tax Collections for Years: 1957	1950	1945
All States	14,530,749	388,238	210,675	82,841
Alabama	229,647	1,431	910	504
Arkansas	125,260	4,760	3,358	1,206
California	1,637,187	1,207	930	593
Colorado	153,255	3,941	15	33
Florida	375,661	50	30	----
Idaho	50,714	108	108	81
Indiana	298,122	355	307	----
Kansas	158,035	488	245	----
Kentucky	201,160	256	126	74
Louisiana	372,927	82,882	52,281	16,253
Michigan	771,482	653	932	525
Minnesota	292,567	31,700	16,223	8,673
Mississippi	160,523	9,437	6,092	1,354
Missouri	266,152	13	----	----
Montana	52,632	3,472	1,152	798
Nebraska	73,683	1,003	----	----
Nevada	35,267	167	37	49
New Hampshire	33,265	22	----	----
New Mexico	97,114	7,844	2,404	884
North Dakota	51,750	1,581	----	----
Oklahoma	235,720	34,014	20,599	8,959
Oregon	193,985	750	524	134
South Dakota	42,659	748	622	2
Texas	658,840	198,108	102,692	41,651
Utah	76,746	2,775	855	857
Virginia	315,908	225	138	28
Wisconsin	355,977	218	84	138
Alaska	20,974	1,726	----	----

*(From United States Department of Commerce, Bureau of Census, 1958.)

listed levy only a small tax to take care of the administration expenses caused by the regulation on oil and gas production by the state. As we can see by the table, the states of Louisiana, Minnesota, Oklahoma, and Texas raise a large portion of their total tax revenue from the severance tax. It must be remembered that these states have the largest reserves of iron, crude oil, and natural gas. They are also the states having large amounts of natural resource production.

The preceding arguments are all valid reasons why a state should levy a severance tax. They are the arguments which are used whenever the question of a severance tax is brought before the public. Students of taxation will recognize their validity, but the layman may not in all cases. In many cases the arguments for the severance tax are supported by the people who are in an area which has little or no natural resource production. They are the people who will benefit most from a severance tax.

CHAPTER III

ARGUMENTS AGAINST THE SEVERANCE TAX

The major opposition to the severance tax comes from the people who would have to pay the tax if it were passed into law. Arguments used by opponents of the severance tax will be discussed in the following paragraphs.

The Severance Tax Discriminates

It is the contention of one oil and gas association that the severance tax would discriminate in several ways. In the first place it would discriminate between the states if enacted in Kansas. The Kansas Independent Oil and Gas Association claims that it is basically unfair to assume that because some other states have a severance tax, that Kansas should also have one.[1] The argument is that adding a severance tax to Kansas just because other states have a severance tax is not considering all the factors. In the states which do collect a severance tax, all do not require the citizens to pay state income, retail sales, city income, or ad valorem taxes.

The contention of the Kansas Independent Oil and Gas Association has merit. Consideration needs to be given to the entire state tax system and the role of oil and gas in that sytem.

In the second place, according to the Kansas Independent Oil and Gas Association, more oil is produced in Kansas by independent oil men

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[1] Kansas Independent Oil and Gas Association, Taxes on Oil and Gas Properties in Kansas and in Other States in the Midcontinent Area (Wichita: Kansas Independent Oil and Gas Association, 1957), p. 5.

than by major oil companies. The tax would discriminate because the independent oil man must sell his production to a refinery at prices determined by major oil company refineries. The independent oil man must pay the severance tax himself but the major oil company can refine its own oil and then pass on the tax to the consumer in the price of the finished product. In this way the severance tax would discriminate against the independent oil producer.[2]

The allegation of the Kansas Independent Oil and Gas Association that the major oil companies would pass the tax on to the consumer in price of the finished product is controversial. The price of crude oil is determined on the open market. There is a substantial element of monopoly in the oil business and monopolistic producers would already have been charging whatever high price yielded the maximum profit.[3] This fact would keep the major oil companies from passing the tax on to the consumer. If this is so Kansas producers have been receiving price comparable to producers in the surrounding states without paying a severance tax. With prices already as high as the traffic will bear there seems to be little possibility for the tax to be passed on to the consumer.

A third contention is that a severance tax in Kansas would discriminate between mineral industries in the state. The Kansas Independent Oil and Gas Association considers it unfair for the tax to be placed on

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[2]*Ibid.*, p. 5.

[3]J. D. Morgan, "Severance Taxes," *Your Business Bulletin of The Bureau of Business Research, University of Kansas* (Lawrence: University of Kansas, May 15, 1948), p. 7.

the oil and gas produced and not on every mineral produced in the state.[4]

The counter to this contention is that the other mineral industries in the state are marginal producers except for salt and cement. Those favoring a severance tax recommend the protection of marginal producers including crude oil producers.[5] The value of other minerals produced in Kansas is presented in Table V. If a one percent severance tax had been levied on these products in 1957 the tax would have amounted to $632,350. If this were added to the amount that could be raised from a one percent tax on the value of oil and gas production in Kansas the total would amount to $4,957,670 for 1957. Other minerals and natural resources would amount to 12.7 percent of the total.

State Economy Would Suffer

An argument against the severance tax in Kansas is that the economy of the state would suffer. This contention is based on the fact that oil and gas producers are paying twenty-one million dollars annually for rental of fifteen million acres of non-producing Kansas farm land.[6] These leases are held in ninety-five counties throughout the state. The rental fee of the leased land is used by the farmers in many cases to pay a good share of their property taxes. The Kansas Independent Oil and Gas Association contends that one of the immediate resuls of a state severance tax

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[4]Kansas Independent Oil and Gas Association, *loc. cit.*

[5]Kansas State Teachers Association, *Should Kansas Have A Severance Tax?* (Topeka: Kansas State Teachers Association, 1948), p. 18.

[6]Kansas Independent Oil and Gas Association, *op. cit.*, p. 6

TABLE V

MINERAL PRODUCTION IN KANSAS 1957*

Mineral	Tons	Total Value
Coal	749,001	$ 3,331,000
Lead	4,257	1,217,000
Salt	1,018,027	10,353,000
Cement	8,177,330	24,814,000
Zinc	15,859	3,629,000
Sand and Gravel	9,344,908	6,675,000
Stone	10,411,500	11,926,000
Clays	908,693	1,240,000
Total		$63,253,000

*United States Department of Interior, Bureau of Mines, Minerals Yearbook Vol III (Washington: Government Printing Office, 1959), p. 434.

would be the nonrenewal of many wildcat leases by the producers which would cost the farmers many dollars in rental fees.

There is a possibility that leases may be dropped in some areas in the state but since the severance tax is not levied on the leasing of oil and gas rights but on the production of oil and gas, it seems possible that the severance tax might not effect the number of acres leased. Other states which levy severance taxes such as Oklahoma and Texas, must not have this trouble, at least the number of wildcat wells drilled in Kansas. In 1958, 3,636 wilcat wells were drilled in Texas, 854 in Oklahoma, and 844 in Kansas.[6]

The Severance Tax Will Hurt Producers of Marginal Wells

Opponents of a severance tax contend that such a tax will hurt the producers of marginal wells, i.e., those which produce only slightly more income than is necessary for monthly operating costs.[7]

The argument is valid because the operating expenses can fluctuate on all wells and with a levy of the same percent on marginal wells as on ordinary wells the marginal producer might lose money. Several states exempt marginal wells from the tax or tax them at lower rates. In Louisiana for example a provision in the severance tax law which allows oil

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[6]Oil and Gas Journal Staff, "Wildcat Completions in 1958," Oil and Gas Journal, Vol. 57, No. 4 (January 26, 1959), p. 124.

[7]Kansas Independent Oil and Gas Association, loc. cit.

wells which produce less than six barrels per day to be taxed at one-half the regular rate.[8] An exemption of this sort could be written into any severance tax law and numerous severance tax proposals in Kansas have contained similar exemptinns.

Severance Tax Would Drive Out the Oil Industry

Some opponents of the severance tax charge that a severance tax in Kansas would drive the oil industry out of the state. This argument is not a strong reason for not having a severance tax because nineteen other states have severance tax laws and they haven't driven out the oil industry. Texas, Louisiana and Oklahoma for example have more wells, a greater number of operating companies and more exploration than does Kansas and they all have severance taxes on oil and natural gas.[9]

The argument that a severance tax "Will drive the oil industry out of the state," has been used many times in oil producing states. Oklahoma and Texas both used this argument when they were involved in the severance discussions in 1937.[10]

Oil and Gas are Overtaxed

One complaint frequently made by the oil and gas industry is that it is already over taxed and a severance tax will just add to their tax burden.[11]

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[8] Louisiana State Legislature, Louisiana Severance Tax Law (Baton Rouge: Collector of Revenue State of Louisiana, 1948), p. 5.

[9] Oil and Gas Journal Staff, "Total Producing Wells in the United States," Oil and Gas Journal, Vol 57, No. 4 (January 26, 1959), p. 123.

[10] Kansas State Teachers Association, op. cit., p. 17.

[11] Ibid., p. 22.

In 1958 seventy-eight of the state's one hundred and five counties had oil and gas production. The total property tax paid by the producers for property tax was $12,489,904 in 1958 for the seventy-eight counties. The total tax paid was 2.87 percent of the market value of oil and gas production for the seventy-eight counties.[12] Comparing this amount to the five percent rate levied in Oklahoma, it appears that the Kansas producers are as a whole getting off much easier than the Oklahoma producers.

Independents Produce the Most Kansas Oil and Gas

Opponents of a severance tax in Kansas use the argument that the Kansas oil operator is a different kind of person than operators in other states. The Kansas Independent Oil and Gas Association points out that three thousand independent oil producers pump an average of 193,747 barrels daily while thirty-two major oil companies produce 156,860 barrels on a daily average.[13] This argument infers the independent producers are citizens of the state, contributing tax revenues from properties, their income and on materials they buy. Many of the independent oil producers may be citizens of Kansas but many of the independent oil producers have much of their backing from people all over the United States. The Kansas Farm Bureau reports that an examination of the county clerk's records in every major producing area in Kansas will show that the royalty owners have addresses extending from Los Angeles to New York to Miami and into

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[12]Research Department Kansas Legislative Council, *Ad Valorem Taxation of Oil and Gas Property 78 Kansas Counties 1958*, Publication No. 222 (Topeka: Research Department Kansas Legislative Council, 1959), p. 12.

[13]Kansas Independent Oil and Gas Association, *loc. cit.*

foreign countries.[14] It doesn't seem unfair to ask these royalty owners to assume a fair tax load as they assume in other states.

Severance Tax Will Hurt Local Taxing Units

It has often been said by opponents of the severance tax that such a tax on oil and natural gas would virtually disrupt the present financial set up of counties where there is oil or natural gas production. Almost every state which has enacted a severance tax has had to deal with this problem. If the tax is levied in addition to ad valorem property tax there will be no disruption of county finances. If the tax is applied in lieu of ad valorem property taxes some method of allocating the severance tax back to the county from which it was collected is necessary. The method of allocation to counties could be provided in any severance tax law. Louisiana and Oklahoma are states which allocate some of the severance tax collections back to the counties in which they were collected.

Who Will Pay the Severance Tax

It is argued that the oil producer would shift the severance tax on to the consumer. This argument is possibly correct to a certain extent. The independent producers who must sell their oil to major oil company refineries would have to pay the taxes on their production. The major oil companies on the other hand could shift the tax on to the consumer in higher prices of the finished products of their refineries.[15]

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[14]Kansas Farm Bureau, "The Case for a Severance Tax in Kansas" (Manhattan: Kansas Farm Bureau, 1957), p. 10 (mimeographed.)

[15]Kansas Independent Oil and Gas Association, *op. cit.*, p. 7.

People in favor of the severance tax contend that the producer will pay the tax and will not pass it on to the consumer due to the fact that the oil companies will absorb the amount of the severance tax. The reason given by these people is that the amount of the severance tax when applied to a gallon of gasoline would be insignificant.[16]

It seems possible that if a severance tax were imposed in Kansas the tax would be absorbed by the producers. The reason they will absorb the amount of the tax is that the price of oil in Kansas is determined to a large extent by the prices of oil in surrounding states. Its possible with monopolistic control of the oil business that the prices paid for oil in Kansas include an allowance for a severance tax. The finished products are also priced competitively with prices charged in other states which would make it difficult for the refineries in Kansas to raise their prices higher than those in other states. For these reasons and the fact that the amount of the tax when applied to the finished products would be small, people who favor a severance tax contend that the producer will not pass the tax on to the consumer but will absorb it.

<u>No Account is Taken of Expenses of Production</u>

The argument that no account is taken of expenses of production has been used in arguing against the severance tax. This argument may

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[16]Kansas State Teachers Association, <u>op. cit.</u>, p. 16

not be used extensively at this time due to the fact that costs of drilling wells in Kansas are lower than for most states. The reason for this is that Kansas wells are drilled to shallower depths. The western Kansas wells can be drilled and equipped for about thirty-six thousand dollars as compared to a national average of over one hundred thousand dollars per well according to the Kansas Independent Oil and Gas Association.[17]

Some Counties Will Pay and Others Will Not

Opponents of the severance tax contend that some counties will pay and others which do not pay will receive the revenue from the tax. Kansas as of 1958 had oil production in seventy-eight of one hundred five counties so it is true that some counties would receive benefits from the severance tax when they had not contributed. The oil and gas producing counties might receive a proportion of the severance tax collections from the state, in proportion to the amount of the tax which had been collected from each county if a provision of this type were put into a severance tax law. The reasoning that oil and natural gas are "a heritage of the people" would defend the allocation of some severance tax revenues to counties without oil or gas production.

Possibly the strongest argument against a severance tax is that the oil producers do not want to pay any more taxes. It was pointed out earlier in the chapter that the Kansas producers are paying less taxes in comparison to Oklahoma, per barrel of oil and the Kansas producers realize that they are paying a cheaper tax bill. They are the strongest

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[17]Kansas Independent Oil and Gas Association, *loc. cit.*

pressure group against a severance tax because they feel they are vitally affected. Other opposition to the severance tax comes mainly from citizens from counties which have heavy oil or natural gas production.

It is the conclusion of the writer that a severance tax law with the proper provisions of excluding marginal wells, a fair method of allocating the tax revenue back to producing counties and the inclusion of other nonmarginal natural resource industries under the tax would eliminate much of the opposition to the tax.

CHAPTER IV

THE KANSAS EXPERIENCE

The state of Kansas is the fifth largest producer of crude oil and natural gas in the United States. At the present time it is still one of the twenty-two states which does not levy a severance tax.

I. HISTORY OF THE SEVERANCE TAX IN KANSAS

During the last forty years, bills proposing some form of severance tax have been introduced in almost every session of the Kansas legislature. In this time only one bill has passed and it was declared unconstitutional by the Kansas Supreme Court. Most of the bills which were proposed did not get out of committee. (See Table VI, page 32 for a historical summary.)

The Kansas legislators have seen the oil industry as a source of additional revenue and have tried repeatedly to pass a severance tax law. In 1924 an amendment to the Kansas Constitution authorized the classification of minerals for purposes of taxation. The Tax Code Commission, in 1929, recommended a gross production tax of 2 percent, in lieu of the ad valorem tax on leases and oil wells. This was accompanied by a proposal for the use of the revenue, two-thirds of which was to be placed in the state school equilization fund, and one-third to be returned to the counties where the oil and gas were produced. The latter amount would be divided as follows: one-fourth to the general fund; three-fourths to rural elementary school districts.[1]

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[1] Report of the Kansas Tax Code Commission (Topeka: Kansas Tax Code Commission, December, 1929).

In 1934 the Kansas Legislative Council considered a gross production tax of 3 percent on the gross value of oil and natural gas.[2] This proposal would have repealed sections 79-329, 79-330, 79-331, 79-332, 79-333, and 79-334 of the Revised Statutes of Kansas, supplement of 1933. The council found that 42,762,360 barrels of oil had been produced in Kansas for the yearly period ending September 9, 1934, the first year of the federal oil control in the United States. This figure included the production of petroleum, mineral and crude oil. During this time the price of oil remained throughout this period at an average of one dollar per barrel.[3]

In 1934, the gross production tax on oil and natural gas in other large producing states was:[4]

STATE	OIL RATE	NATURAL GAS RATE
California*	0	0
Oklahoma	3%	3%
Pennsylvania	0	0
Texas	2% plus 1/20%	2%
West Virginia**	3%	6%***

* Uniform rate imposed per barrel and fixed rate per 1,000 cubic feet of gas. Rates determined annually.

** West Virginia tax is a sales tax.

*** 6% of gross proceeds in excess of $5,000 value.

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[2]Research Department Kansas Legislative Council, Possible Additional Revenue From Taxation, Miscellaneous Items (Topeka: Kansas State Printer, November 17, 1934), p. 2.

[3]Ibid.

[4]Ibid., p. 3.

The council assumed that the federal control on oil production would remain in effect over the next year and estimated that a 3 percent levy would bring in $1,481,000 during the period September 1934 to September 1935 if the price of oil stayed at the average of one dollar per barrel. After doing this work the proposal was never introduced to the Kansas Legislature.

In 1937 the Legislative Council Committee on Taxation suggested the use of severance taxes to the 1937 Legislature as possible additional sources of revenue.[5] The committee estimated that a severance tax would raise between $440,000 and $2,075,000 annually. This range was arrived at by applying to the Kansas production figures the rates that were being imposed by other states.

The value of petroleum production in Kansas for the calendar year 1936 was established at $61,320,000. This was based upon production of 58,400,000 barrels at an average price of one dollar and five cents per barrel.

The value of natural gas in Kansas for 1934 was estimated at $2,627,000. No later figures were available, but the local engineers estimated a production increase of from twenty to forty percent in 1936 over 1934.

Using the rates that other states apply to this type of production the committee estimated that the revenue that could be raised from a gross production or severance tax would range from $440,000 to $2,075,000.

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[5]Research Department Kansas Legislative Council, Potential Sources of Additional Revenue from Taxation (Topeka: Kansas State Printer, January 1937), p. 1.

The Tax Code Commission in 1929 had reported that a tax on gross production of oil and gas in Kansas as an additional tax was not advisable.[6] The committee, using the advice of the 1929 Tax Code Commission, recommended a 2 percent gross productinn or severance tax in lieu of the present ad valorem tax on oil and gas leases and oil and gas wells. In order to compensate the localities for revenues lost by exempting oil and gas leases from ad valorem levies, the commission proposed to distribute back to each county one-third of the amount of the severance tax collected in that county.[7]

Further study of gross production taxes on natural gas was made by the Committee on Assessment and Taxation at the January 27, 1944 meeting.[8] The committee studied information on the form and coverage of tax laws in other states. They also presented the rates used by the other states to the members of the research department. Other aspects of production taxes were discussed by members of the committee, including the relationship of such taxes to the tax system as a whole. Nothing more was done about the severance tax at this time by the Legislative Council.

In a later meeting in 1944 the council discussed Proposal No. 26 which related to a gross production tax on natural gas and which had as its main purpose the prevention of the exportation of natural gas produced

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[6]Tax Code Commission, _op. cit._, p. 44.

[7]Research Department Kansas Legislative Council, _op, cit._, p. 11.

[8]Kansas Legislative Council, _Progress Report January Council Meeting, Publication No. 123_ (Topeka: Kansas State Printer, February 1944), p. 5.

FORT HAYS KANSAS STATE COLLEGE

in Kansas to some other state where it would be stored for future use.[9] It was felt that such exportation would be detrimental to the interests of the people of Kansas. This Proposal was rejected by the council by reason of court decisions on cases in other states which arose in connection with legislation similar to the primary purpose of this Proposal. The council concluded that such a tax would constitute a burden on interstate commerce and would be held unconstitutional.

The Legislative Council was authorized in May 1947 by Proposal No. 8 - Severance Tax, to bring up to date some of the available material on the severance tax and to secure more detailed information on certain points.[10]

Two bills on the severance tax were introduced by the 1947 Kansas Legislature, one in the Senate and one in the House, but neither bill got out of committee. See Table VI.

At the March 1948 meeting of the Legislative Council further consideration was given to the Severance Tax (Proposal No. 8).[11] The committee heard a report by Council Vice-Chairman Miller of a regional conference on oil and gas problems held at Oklahoma City in February 1948. The conference which was sponsored by the Council of State Governments brought together representatives of the oil and gas industry and administrative officials from eight Southwestern States. The committee was

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[9] Kansas Legislative Council, _Sixth Biennial Report and Recommendation of the Kansas Legislative Council_ (Topeka: Kansas State Printer, 1944), p. 199.

[10] Kansas Legislative Council, _Progress Report of May 1944 Meeting, Publication No. 149_ (Topeka: Kansas State Printer, May 1944), p. 4.

[11] Kansas Legislative Council, _Progress Report of March 1948 Meeting, Publication No. 153_ (Topeka: Kansas State Printer, March 1948), pp. 2-3.

TABLE VI

SEVERANCE TAX PROPOSALS IN THE KANSAS LEGISLATURE*

Year	Type of Bill	Bill No.	Title of Bill	Author of Bill, and Home town	Reason for failure
1917	House	857	An act relating to the taxation of oil and gas.	Walter A. Layton, Osborne	Died in committee
1917	House	554	An act concerning the taxation of natural gas and oil taken from the earth.	W. W. Harvey, Ashland	Died in committee
1921	Senate	514	An act concerning taxation, to provide for levying, collecting and paying of a tax on the privilege of engaging or carrying on the business of mining any natural deposits within the state.	Committee on Assessment and Taxation	Killed by the Committee of whole
1923	Senate	40	An act concerning taxation; to provide for the levying, collecting and paying a tax on the privilege of engaging and carrying on the business of mining any natural deposits within the state of Kansas.	Sen. Van DeMark, Concordia	Died in committee
1923	House	426	Identical to Senate Bill No. 40 of 1923.	James M. Snyder, Atchison	Died in Committee
1925	Senate	6	Idential to Senate Bill No. 40 and House Bill no. 426 of 1923.	Sen. Van DeMark, Concordia	Died in committee
1925	House	47	An act providing for the assessment, levy and collection of a tax upon mineral production	Warren Culp, McPherson	Recalled for corrections

(continued)

Table VI, continued.

Year	Type of Bill	Bill No.	Title of Bill	Author of Bill, and Home town	Reason for failure
1925	House	93	Identical to House Bill No. 47 of 1925.	Warren Gulp, McPherson	Struck from record
1927	House	527	An act relating to oil, coal and other minerals, providing a tax upon the gross productinn of said minerals.	Mr. Wallen, Parsons	Died in committee
1927	House	532	An act relation to gas and oil, providing a tax upon the gross production of gas and oil.	Mr. Walker, Arkansas City	Died in committee
1929	House	360	An act relating to petroleum and crude oil, providing a tax upon the gross production of said petroleum and crude oil.	Mr. White Atchison	Died in committee
1931	Senate	18	An act imposing a license fee upon public utilities in the state of Kansas and providing for the collection thereof.	Senator Warren, Ft. Scott	Died in committee
1931	Senate	18	Supplement, Identical to Senate Bill No. 18 of 1931.	Comm. on Public Utilities	Didn't pass Senate
1931	House	29	An act providing for the levying, collecting and paying for a tax upon gross production of oil and natural gas.	Mr. Jetmore, Lawrence	Died in committee
1935	Senate	254	An act providing for an oil production tax in the state of Kansas	Senator Bender, Holton	Died in committee
1935	Senate	267	An act imposing a license or privilege tax upon business and occupations measured by gross receipts.	Senator Taggart, Wellington	Died in committee

(continued)

Table VI, continued.

Year	Type of Bill	Bill No.	Title of Bill	Author of Bill, and Home town	Reason for failure
1937	Senate	188	An act providing for the assessment and collection of a tax upon oil and gas.	Senator Keef, Glen Elder	Died in committee
1937	Senate	382	An act providing for the assessment, levy and collection of a tax upon crude oil, natural gas and all other minerals.	Senator Miller Lindsey	Died in committee
1937	House	288	An act providing for a tax upon the gross production of oil and gas.	Mr. Plumer, Perry	Died in committee
1937	House	579	An act providing for the assessment, levy and collection of a tax upon crude oil and natural gas.	Committee on Assessment and Taxation	Died in committee of whole
1939	Senate	75	An act providing for the assessment and collection of a tax upon crude oil and natural gas.	Senator McDonald, Kansas City	Died in committee
1945	House	216	An act providing for the assessment, levy and collection of a tax upon oil, gas and mineral products.	Mr. Dietrich, Ft. Scott	Died in committee
1947	Senate	224	Identical to House Bill No. 216.	Senator Coleman, Mission	Died in committee
1947	House	231	Identical to Senate Bill No. 224.	Mr. Strickler, Ramona	Died in committee
1949	Senate	121	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Senator Goodrich, Parsons	Died in committee

(continued)

Table VI, continued.

Year	Type of Bill	Bill No.	Title of Bill	Author of Bill, and Home town	Reason for failure
1949	House	146	Identical to Senate Bill No. 121 of 1949.	Mr. Anderson, Emporia	Died in committee
1953	Senate	4	A proposition to ammend article 11 of the constitution, by adding a new section thereto, relaing to a severance tax.	Senator Croxton, LaCygne	Died in committee
1953	House	212	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Mr. Deer, Augusta	Died in committee
1953	House	27	House concurrent Resolution providing for the submission of questions to qualified electors of the state for their expression as to methods of financial assistance to high schools.	Mr. Strickler, Ramona	Died in committee
1955	House	291	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Mr. Charlson, Manhatten	Died in committee
1956	House	4	Identical to House Bill 291 of 1955.	Mr. Meek, Idana	Died in
1956		54	Identical to House Bill No. 4, except for the addition of, providing certain exemptions on some small wells.	Committee on Horticulture	Didn't Pass House
1957	Senate	227	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Senator Hodge, Hutchinson	Died in committee
1957	Senate	309	An act providing for the levy and collection of a tax upon the production of natural gas.	Senator Charlson, Manhatten	Died in committee

(continued)

Table VI, continued

Year	Type of Bill	Bill No.	Title of Bill	Author of Bill, and Home town	Reason for failure
1957	Senate	415	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Committee on Assessment and Taxation	Killed by House
1957	House	383	An act providing for the assessment, levy and collection of a tax upon the gross value of certain products and providing for the deposition of revenues received from such tax.	Mr. Schartz Great Bend	Approved by the Governor April 4, 1957
1957	House	391	An act providing for the levy and collection of a tax upon the production of oil and natural gas.	Mr. Bower, McLouth	Died in committee
1958	Senate	8	An act relating to taxation, imposing an excise tax upon the production of minerals. (Budget Session)	Senator Root, Parker	Died in committee
1958	House	75	An act relating to taxation, imposing an annual privilege tax upon the severance of oil and gas. (Budget Session)	Committee on Ways & Means	Died in House
1958	House	43	An act providing for the levy and collection of a tax upon the production of certain minerals. (Budget Session)	Mr. Nance, Montezuma	Died in committee
1958	House	3	An act relating to taxation, imposing a privilege tax upon the severance of oil and gas. (Special Session)	Mr. Hedges, Coffeyville	Killed by House

*<u>Senate and House Journals of the State of Kansas</u> from 1917 to 1958

studying the basic question of the severance tax, whether it should be imposed in addition to or in lieu of the present ad valorem taxes. It was generally agreed after hearing the report on the conference on oil problems that under the Kansas Constitution it would be impossible to impose such a tax in lieu of the present ad valorem tax on the leasehold, but not in lieu of the present tax on machinery and equipment used in the production of oil and gas. On the other hand, a severance tax could be imposed in addition to the present taxes without disturbing the present local tax structures. The committee did not reach any conclusion on this matter, but authorized the gathering of information on all the factors as a basis for further legislative consideration on the subject.[12]

Action was taken on the above matter at the November 1948 meeting of the council. The Committee on Assessment and Taxation in a lengthy report explained the position of the committee.[13] The committee was divided and both the majority and minority opinions were stated in the report. The majority recommendation was that no severance tax law be enacted by the 1949 legislature. This recommendation was approved by the council.

Seven bills were proposed by the Senate and House between 1948 and 1955 but the Legislative Council did not discuss these proposals. In 1955 the Research Department of the Kansas Legislative Council pub-

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[12]Kansas Legislative Council, Progress Report of March 1948 Meeting, Publication No. 153 (Topeka: Kansas State Printer, March 1948), p. 3.

[13]Kansas Legislative Council, Progress Report of November 1948 Meeting, Publication No. 157 (Topeka: Kansas State Printer, November 1948), p. 7.

lished a report "Financing Kansas Government". In this report additional sources of revenue were proposed and the severance tax was included. In this report the council pointed out that Kansas and California were the only major oil and gas producing states which did not have a severance tax. They listed eight states which have substantial oil and gas resources and states which realized over one million dollars in 1955 from taxes on severed mineral products:[14]

(In Thousands of Dollars)

State	Amount	State	Amount
Arkansas	$ 3,937	Montana	$ 1,582
Colorado	2,122	New Mexico	6,527
Louisiana	66,923	Oklahoma	28,999
Mississippi	6,533	Texas	158,781

In this report the council pointed out that if Kansas had utilized the rates of the five states which levy the tax in addition to the ad valorem tax, on the 1954 Kansas production they would have realized:[15]

	Rates		
	Oil	Gas	Yield to Kansas
Arkansas	4% of value	3/20¢ mcf	$14,110,000
Louisiana	18¢-26¢ per bbl.	3/10¢ mcf	30,916,000
Montana	2% of value	2% of value	7,613,000
New Mexico	2.5% of value	2.5% of value	9,516,000
Texas	4.6% of value	8% of value	19,027,000

The collection figures were based upon the total amount of production, with no allowance for exempting marginal wells. None of the eight states

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[14] Kansas Legislative Council, Financing Kansas Government, Publication No. 200 (Topeka: Kansas State Printer, December 1955), p. 35.

[15] Ibid.

mentioned in the report fully exempt marginal wells from the severance tax, but do have different rates on the marginal wells.

The report also included other minerals of Kansas including coal, lead, zinc, salt, sand, gravel and stone. The following ten states impose severance taxes on one or more of these products:[16]

Alabama
Arkansas
Idaho
Louisiana
Minnesota
Montana
New Mexico
Oklahoma
South Dakota
Utah

The council showed that if Kansas would use the highest rates imposed by any of the above states on these minerals they could raise $1,060,000 based on 1954 production.[17]

Mineral	Rate	Yield to Kansas
Coal	5 cents per ton	$ 65,000
Lead and Zinc	4% value	166,000
Salt	4% value	298,000
Sand and Gravel	3 cents per ton	270,000
Stone	3 cents per ton	261,000

The severance tax was again brought before the legislature under Proposal No. 48 in 1958.[18] The committee instructed the research department to make an analysis of the effect on local government units were a severance tax to be imposed in lieu of the ad valorem tax on oil and gas

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[16] Ibid.

[17] Ibid.

[18] Kansas Legislative Council, Progress Report of May 1958 Meeting, Publication No. 219 (Topeka: Kansas State Printer, May 1958), pp. 6-7.

production and the equipment used in production. The study covered all oil and gas producing counties in Kansas. Nothing further was done in regard to this proposal by the council.

From 1917 to 1959, forty-three bills proposing a severance tax were introduced in the Kansas Legislature as shown by Table VI. The most frequent as well as the lowest percentage of the tax levy was 2 percent and the highest 4 percent.[19] All of the bills with one exception stated how the revenue was to be used, most of the bills provided that it must go to the state general fund or the state school fund. A number of the bills provided for a dividing of the revenue between the state and the county from which the oil was obtained.

Five bills were introduced in 1957 and one was passed into law, but was shortly declared unconstitutional. This hasn't stopped the proposals from being made because in 1958 four more severance tax bills were proposed.

II. THE KANSAS SEVERANCE TAX LAW

The severance tax law which was enacted by the Kansas Legislature in 1957 is presented below:[20]

Assessment, Levy and Collection of a Tax Upon the Production of Oil and Gas

House Bill No. 383

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[19] Kansas League of Women Voters, "Report on the Severance Tax" (Topeka: Kansas League of Women Voters, 1948), p. 4. (mimeographed.)

[20] Kansas Legislature, Session Laws, 1957 State of Kansas (Topeka: Kansas State Printer, 1957), p. 1049.

> An Act providing for the assessment, levy and collection of a tax upon the gross value of certain products and providing for the disposition of revenues received from such tax; and providing penalties for the violations of the act.

Section two concerns the severance tax levy which was imposed at one percent of the value of the oil and gas produced at the point of production. The tax was imposed upon every person engaging or continuing within the state in the business of producing, or severing oil or gas from the soil or water for sale, transport, storage, profit or for commercial use.

The 1957 law provided that the tax would be levied upon the entire production in Kansas, regardless of the place of sale or to whom sold, or by whom used. The tax was not to be levied upon a person who occasionally produces oil or gas from his own premises for his own use and not for sale, commercial gain or profit.

Section three stated that the severance tax was in addition to the general property tax and the payment of the severance tax would not effect the liability of any producer for any state, county, municipal, district or special taxes upon real and personal property. The law also provided that no additional privilege or excise tax in addition to the severance tax could be imposed.

Section four provided that the tax was to be paid by the person in charge of the production operations who would deduct the proportionate amount of tax due from the amount due producers of the oil. The tax would constitute a first lien upon any of the oil or gas produced in the event the producer failed to pay the tax.

Section five provided that in event of a title dispute the producer was authorized to deduct the amount of the tax and submit it in accordance with the law.

Section six dealt with returns and required that the report filed would be considered to be under oath by person who filed the report. Every producer was required to report all information required by the law, on forms prescribed by the Director of Revenue.

Section seven concerns carriers and records. The law required all transporters of oil or gas to furnish the director of revenue such information relative to the transportation of such oil or gas, as he may require.

Section eight applied to additional information. The director of revenue was given the power to require any producer or person in charge of production operations to furnish any additional information deemed necessary for the compilation of the tax and to enforce the act.

Section nine referred to returns and administration. The taxes levied were to become due and payable in monthly installments, or on or before the twenty-fifth day of the next succeeding month in which the tax accured.

Section ten of the law clearly defined the various penalties for noncomformance with the law.

Section eleven required that every oil producer in the state to keep for a period of three years, a complete and accurate record, in the proper form. If this provision wasn't carried out the law provided a

penalty of not less than fifty dollars and not more than five-hundred dollars for each offense.

Section twelve provided that all revenue received or collected was to be deposited in the state treasury. The state treasurer was then to credit the same to the general fund.

Section thirteen empowered the director of revenue to make and enforce such rules as necessary to properly administer and enforce the act.

Section fourteen stated that if any section or part of the act was declared unconstitutional the rest of the act would still be in force.

Section fifteen exempted the withdrawal of natural gas from underground storage into which it had previously been placed following its initial severance from paying the tax again.

Section sixteen set the date that the act would take effect. The act was to take effect and be in force from and after July 1, 1957, and its publication in the statute book.

The act was approved by the governor April 4, 1957.

III. REVENUE PRODUCING ABILITY OF THE KANSAS SEVERANCE TAX

The 1957 Law provided a tax of one percent of the value of the oil or gas produced at the point of production. The average value of the crude oil produced in Kansas at the well was $3.01 per barrel.[21]

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[21]United States Department of the Interior, Bureau of Mines, 1957 Minerals Yearbook Vol. II Fuels (Washington: Government Printing Office, 1959), p. 393.

The production of crude oil in Kansas for 1957 was 123,614,140 barrels which would have a value of $372,078,140 when multiplied by $3.01 per barrel. The one percent severance tax on oil production would amount to $3,720,781.40 for 1957.[22]

The average price of natural gas at the well head in Kansas was 11.4 cents per thousand cubic feet in 1957.[23] In 1957 Kansas produced 586,690,000,000 cubic feet of natural gas. The severance tax of one percent on $66,882,660, the value of natural gas production, would amount to 668,826.60. The total amount that would have been raised from the one percent severance tax in 1957 would have been $4,389,608. If the one percent severance tax had been applied in 1958 it would have brought in $4,322,301.90 in revenue to the state. Had the tax been applied in 1956 it would have raised $4,059,717.83. The oil productinn was greater in 1956 than in 1957 or 1958, but the price of oil was lower, averaging only $2.79 per barrel.[24] The price of natural gas was also lower by one tenth cent per thousand cubic feet.[25]

IV. THE KANSAS SEVERANCE TAX LAW DECLARED UNCONSTITUTIONAL

The severance tax law passed by the 1957 session of the Kansas legislature was tested soon after it went into effect. The law

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[22] Oil and Gas Research Department, "Crude Oil Production in the United States for 1958," Oil and Gas Journal 57:135, January 26, 1959.

[23] 1957 Minerals Yearbook, op cit., P. 321.

[24] 1957 Minerals Yearbook, op. cit., p. 393.

[25] Ibid., p. 321.

went into effect July 1, 1957 and the Kansas Supreme Court decision was made January 30, 1958.[26] The test case was brought by Robert J. Dole, as County Attorney of Russell County, Kansas; Loyd H. Phillips, as County Attorney of McPherson County, Kansas; Bernard Nordling, as County Attorney of Stevens County, Kansas; David W. Kester, as County Attorney of Greenwood County, Kansas; Harry L. Depew, as County Attorney of Wilson County, Kansas, Plaintiff, v. J. E. Kirchner, as Director of Revenue of the State of Kansas and Richard T. Fadely, as State Treasurer of the State of Kansas, Defendants.[27]

The opinion of the Kansas Supreme Court was delivered by Justice Robert T. Price. The Plaintiff contended that the act known as the Oil and Gas Severance Tax was unconstitutional, and therefore void, on any one or all of seven different grounds, the first of which was that the act was not clearly expressed in its title, as is required by Article 2, Section 16, of the Kansas Constitution.

Article 2, Section 16 reads:

> No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or amended, unless the new act contains the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed.[28]

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[26] William A. Dumars, Official Reporter, Reports of Cases Argued And Determined In The Supreme Court of The State of Kansas. Vol. CLXXXII (Topeka: Kansas State Printer, 1958), p. 622.

[27] Ibid., p. 623.

[28] Ibid.

The title of the Kansas Severance Tax Act reads:

An act providing for the assessment, levy and collection of a tax upon the gross value of certain products and providing penalties for the violations of the act.[29]

The basic subject matter of the act reads:

From and after July 1, 1957, there is hereby levied and imposed an annual privilege tax upon every person engaging or continuing within this state in the business of producing, or severing oil or gas from the soil or water for sale, transport, storage, profit, or for commercial use.[30]

The question which was brought up by the Plaintiff, was this:

Is the subject of the act, which is the imposition of an annual privilege tax upon every person engaging or continuing within this state in the business of producing or severing oil or gas from the soil or water for sale, transport, storage, profit or for commercial use, clearly stated in the title of the act in compliance with the constitutional mandate?[31]

Earlier cases had ruled that the purposes of the title is to direct the mind to the contents of a bill so that the legislators and public may be fairly informed and not to deceive as to what it embraces. The title does not have to be a synopsis or abstract of the entire act if it indicates clearly, though in general terms, the scope of the act.[32]

The Defendants contended that under the "germane test", the title of the act was valid, that is, the words "a tax upon the gross value of certain products", are germans to the subject matter of the act--the levy and imposition of a severance tax on oil and gas.

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[29] Ibid.

[30] Ibid., p. 624.

[31] Ibid.

[32] Ibid.

The Court brought up that some state constitutions provide merely that the subject of an act be "expressed" in the title. The Kansas Constitution provides that the word clearly, means just what it says.

The title of the act merely refers to the levy of "a tax upon the gross value of certain products". The reader is left to his imagination as to what products are taxed, and the nature of the text. The reader must resort to the body of the act to discover that in reality the subject matter is a privilege tax on those persons engaging in severing oil or gas.

The Court decided that by no stretch of imagination could the subject matter of the act be termed clearly expressed in its title. On this ground the Court held that the title of the act was defective which made the entire act unconstitutional and void.[33]

Judgement was entered for the Plaintiff, with Justice Fatzer dissenting.[34]

The Supreme Court ruling that the Severance Tax law was unconstitutional left Kansas without a major revenue producing tax on the crude oil and natural gas produced in the State. It is conceivable that legislature may pass another severance tax law in the years to come but before one is passed that will stand up in the courts, many legislative debates will have taken place on the subject.

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[33] Ibid., p. 626.

[34] Ibid.

CHAPTER V

OTHER STATE SEVERANCE TAX LAWS

Twenty-eight states in the United States had severance tax laws of some type, as of May 30, 1959. Several states levy heavy taxes on the oil, gas, mining and lumber industry for the privilege of severing the natural resources within each individual state. Other states levy only small taxes which are used to pay for expenses incurred by the state in administering laws pertaining to natural resources. The various state laws will be discussed individually in the following paragraphs.

Severance Taxes of Alabama

The state of Alabama placed a severance tax on the privilege of engaging or continuing to engage within the state of Alabama in the business of producing or severing oil or gas from the soil or the waters, or beneath the soil or waters in 1945.[1] The tax is levied at four percent of the gross value of the oil and gas at the point of production. The tax accrues at the time oil or gas is severed and becomes a lien on the oil and gas produced. The tax law provides methods of administration and penalties for failure to comply. The tax is paid to the state treasury and is distributed by the comptroller to the credit of the general fund of the state and to the county in which the oil or gas was produced and to municipalities within the counties. The state receives

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[1]Alabama State Legislature, Oil and Gas Laws of the State of Alabama (Montgomery: State Oil and Gas Board, 1957), p. 23.

fifty per cent of the first $150,000 collected, the county receives forty-two and one-half per cent and the municipalities get seven and one-half per cent distributed on a population basis. If over $150,000 is collected, eighty-four per cent goes to the state, fourteen per cent to the county and two per cent to the municipalities within the counties on a population basis.[2]

The law exempts all oil or gas produced, all leases in production, and all oil or gas under the ground on producing properties within the state from all ad valorem taxes. The machinery used in production as well as drilling equipment is included in producing properties and is exempt from ad valorem taxation.[3]

Alabama also levies a severance tax to defray expenses of administration and enforcement of conservation. The law was enacted in 1945 and imposes a tax of two per cent of the gross value, at the point of production, of crude oil or natural gas. The tax is paid directly to the department of revenue by the producer.[4]

In addition to the severance taxes on oil and gas, a severance tax on forest products and one on iron ore are also in effect. The tax on iron ore is levied at three cents per ton and the forest products are taxed at various rates depending upon the type of wood.[5]

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[2]*Ibid.*, p. 25.

[3]*Ibid.*, p. 26.

[4]*Ibid.*, p. 14.

[5]Statement by R. L. Hungerford, Chief, Research Statistical and Liaison Division of the State of Alabama, personal letter.

A gross production tax on oil and gas production was enacted, setting a rate of one percent on gross value of oil at the well. Another oil and gas tax was enacted to cover the costs of the Oil and Gas Conservation Commission. The administrative tax is levied at the rate of five mills per barrel of oil and per 50,000 cubic feet of gas.[10]

Severance Taxes of Arkansas

Arkansas passed its present severance tax laws in 1947.[11] The severance tax applies to all natural resources, but the rate is set individually for different resources. The larger rates are on oil and natural gas. Oil is taxed at five percent of the market value at the point of production.[12] If the production of oil on a single lease is less than an average of ten barrels per day the tax is computed at a rate of four percent of the market value at the time and point of severance. The tax on natural gas is three-tenths of one cent per 1,000 cubic feet.

Diamonds, mussel shell, fuller's earth, ochre, natural asphalt, sulphur, salt, iron, pearls and all other minerals not specifically identified by the laws are assessed at five percent of the market value at the time and point of severance. Bauxite, titanimum ore, manganese ore, zinc ore, and lead ore are taxed at fifteen cents per ton of 2,000 pounds. Coal and lignite are taxed at two cents per ton of 2,000 pounds.

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[10] Ibid.

[11] Arkansas General Assembly, Arkansas Acts of 1947 (Little Rock: Arkansas State Printer, 1947), Act 136.

[12] Arkansas General Assembly, Arkansas Acts of 1957 (Little Rock: Arkansas State Printer, 1957), Act 21.

Arkansas uses the severance tax revenue for the general operation, maintenance and improvement of the state government. Seventy-five percent of the severance taxes are put in the general revenue fund and the remaining twenty-five percent goes into the county aid fund which is apportioned on the basis of what severance tax collections in each county bear to the total collections.

California Severance Taxes

California is the second largest producer of crude oil and a major producer of natural gas, but the severance tax is only a small assessment to support the Division of Oil and Gas. The levy is set every year by the Division of Oil and Gas and in 1958 it ran two mills per barrel of oil or ten million cubic feet of gas sold.[13]

California has a severance tax on fish which is levied on gross value of production. There is a bill pending in the 1959 legislature to inaugurate a severance tax on oil and gas for California. This is Assembly Bill No. 1174 which proposes a tax of two percent of the value of gas or oil produced or severed at the point of severance. This matter will be determined by the close of the 1959 session of the legislature in June 1959.[14]

Severance Taxes of Colorado

In 1953 the Colorado legislature passed a severance tax law on oil and gas. The tax is levied upon that portion of gross income of every

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[13]California State Assembly, California Laws for Conservation of Petroleum and Gas--1957 (San Francisco: Division of Oil and Gas, 1957), p. 26.

[14]Statement by E. H. Musser, State Oil and Gas Supervisor, Department of Natural Resources Division of Oil and Gas, State of California, personal letter.

person which is derived from the production or extraction of crude oil, natural gas, or both crude oil and natural gas from petroleum deposits located within the state of Colorado.[15] The tax rates are: under $25,000 gross income, two percent, $25,000 and under $100,000, three percent, $100,000 and under $300,000, four percent, $300,000 and over five percent.

A credit against this tax is allowed of an amount equivalent to the sum of all ad valorem taxes levied, assessed and paid during the taxable year upon crude oil and gas royalties and royalty interests for state, county, municipal, school district and special purposes, except for ad valorem taxes levied, assessed and paid for such purposes upon equipment and facilities used in drilling for, production of, storage of, and pipeline transportation of crude oil and natural gas.

The money collected by this tax is put into an Oil and Gas Income Tax Withholding Fund until the fund is supplied with $50,000. Any funds in excess of $50,000 are credited to the general fund of the state.[16]

Colorado also has a tonnage tax on coal, but it is only a minor revenue producer.[17]

Florida Severance Tax Laws

Florida passed its present severance tax law in 1947.[18] The tax levied by the state of Florida is an excise tax upon every person engaging

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[15]Colorado State Legislature, _Session Laws of 1953_ (Denver: State Printer, 1953), House Bill No. 458.

[16]_Ibid._

[17]Statement by Edna Bigelow, Statistician, Department of Revenue, State of Colorado, personal letter.

[18]David V. Kerns, Director of Legislative Reference Bureau, State of Florida, personal letter.

or continuing within the state in the business of producing or severing oil and gas from the soil or water for sale, transport, storage, profit, or for commercial use.

The tax is levied and assessed at five percent of the gross value of oil at the point of production; and five percent of the gross value of gas at the point of production. The tax is made up of two separate taxes, one called the First Oil and Gas Tax which allocates eighty percent of the total tax to the State of Florida for use of the general revenue fund and the Second Oil and Gas Tax which allocates twenty percent of the total tax to the county in which the oil and gas was produced for use of the general revenue fund of the board of county commissioners.

The tax is the only one levied on the oil and gas and the law provides that ad valorem taxes cannot be increased because of the fact that there may be gas or oil under the surface of the land. The law also provides that the value of land shall not be increased by reason of the location thereupon any oil or gas producing equipment or machinery used in and around any oil or gas well, and also no ad valorem tax can be levied on such producing machinery and equipment.[19]

Mining Severance Tax in Idaho

The severance tax of the state of Idaho is on mining and is assessed on the net profits of the mining company or individual owner as

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[19]Florida State Legislature, Session Laws of Florida 1947 (Tallahassee: Legislative Reference Bureau, State of Florida, 1947), Chapter 211.

a privilege tax, according to Harold Johnson, Executive Secretary of the Idaho State Tax Commission.[20]

Indiana Severance Taxes

The present severance tax of the state of Indiana was enacted in 1947.[21] The severance tax is levied at one percent of the value of all petroleum products which includes generally crude oil and gas severed and taken from the land and is imposed upon the owner and producers of such petroleum products. The act imposes the responsibility of paying the tax upon any person purchasing such petroleum products or having such petroleum products in their possession. A lien for the tax and penalties follows the petroleum products to the hands of the purchaser or carrier. The purchaser or person having the petroleum products in his possession is personally liable for the reporting and payment of the amount of the lien of the tax and other charges.[22]

The funds raised by the tax are placed in a special fund and used for expenses of administering the Severance Tax Law, financing the Oil and Gas Division of the Indiana Department of Conservation, and for operating expense and research in the Geology Division of the Indiana Department of Conservation.

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[20] Statement by Harold Johnson, Executive Secretary of the Idaho State Tax Commission, personal letter.

[21] Indiana State Legislature, Petroleum Severance Tax Law (Indianapolis: Indiana Department of State Revenue, 1947), p. 59.

[22] *Ibid.*, p. 60.

[23] *Ibid.*, p. 65.

The law provides no exemptions for any taxpayer from the imposition of the tax. Oil or gas used by a landowner for his own private use are excluded from the act.[24]

Kansas Severance Tax

Kansas has oil and natural gas conservation laws which were passed in 1931 and 1935 respectively.[25] The expense incurred in the enforcement of these laws is divided among the parties involved in the production of oil or gas. The charge assessed is one-tenth of one cent per barrel of crude oil or petroleum marketed or used each month.[26] The charge on gas is one-half mill on each one thousand cubic feet of gas produced, sold, marketed or used each month by the person involved.[27]

The law can be classified as a severance tax because the assessment is measured according to the amount of crude oil or natural gas which is produced. Even though the tax is actually a severance tax, its purpose is to finance conservation costs and the law is a conservation law not a severance tax law.

Severance Tax of Kentucky

The severance tax of Kentucky is an oil production tax.[28] The tax is levied on every producer of crude petroleum at one-half of one

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[24] Ibid., p. 69.

[25] Kansas State Legislature, Session Laws of 1931 (Topeka: Kansas State Printer, 1931), p. 332.

[26] Kansas State Legislature, General Rules and Regulations for the Conservation of Crude Oil and Natural Gas (Topeka: State Corporation Commission, 1958), p. 31.

[27] Ibid., p. 43.

[28] Kentucky State Legislature, Motor Fuels and Oil Production Taxes 1956 (Frankfort: Kentucky Legislative Research Commission, 1956), p. 5.

percent of the market value of all crude petroleum produced by him in Kentucky.

The counties may also impose a tax on oil of not more than one percent of the market value of all crude petroleum produced in the county. This county tax is to be used for road, county or school purposes.[29]

The state severance tax is imposed and attached when the crude oil is first transported from the place of production, and is imposed ratably upon all persons owning any interest in the oil. Transporters of crude petroleum are required to report the quantity of each kind or quality of crude petroleum received from each county, and also the market value of the crude. Every transporter must register as a transporter of crude petroleum in the office of the county clerk in each county in which he does such business. A transporter is liable for the taxes imposed under the law on all crude petroleum received by him. He must collect from the producer the taxes imposed in money or in crude petroleum.[30] No method of allocation of the state tax is given by the law.

Louisiana Severance Taxes

The state of Louisiana has a severance tax which applies to all natural resources and one which has substantially higher rates than other states. The act was passed in 1935 and has been amended seven times.[31]

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[29]Ibid.

[30]Ibid.

[31]Louisiana State Legislature, Louisiana Severance Tax Law (Baton Rouge: W. A. Cooper, Collector of Revenue, 1948), p. 1.

The tax is levied upon all natural resources severed from the soil or water, including all forms of timber, turpentine and other forest products; minerals such as oil, gas, natural gasoline, distillate, condensate, casing-head gasoline, sulphur, salt, coal, lignite, and ores; also marble, stone, gravel, sand, shells and other natural deposits.[32]

The taxes are to be paid by the owner and become due and payable quarterly. They operate as a first lien on the natural resources and the lien follows the natural resources into the hands of third persons.[33]

Tax rates on timber are:[34]

1. On cypress timber, $1.00 per thousand feet, log scale.
2. On pine timber, 50 cents per thousand feet, log scale.
3. On ash and hickory timber, 75 cents per thousand feet, log scale.
4. On red gum timber, $1.50 per thousand feet, log scale.
5. On tupleo gum, black gum, timber, 25 cents per thousand feet, log scale.
6. On pulpwood, 15 cents per standard cord.

Tax rates on oil products:[35]

1. On oil of 22 gravity and below, 18 cents per barrel of 42 gallon.
2. On oil 22 gravity and not above 28 gravity, 20 cents per barrel.
3. On oil 28 gravity and not above 31 gravity, 21 cents per barrel.
4. On oil 31 gravity and not above 32 gravity, 22½ cents per barrel.
5. On oil 32 gravity and not above 36 gravity, 24½ cents per barrel.
6. On oil 36 gravity and not above 43 gravity, 25 cents per barrel.
7. On oil 43 gravity and above 26 cents per barrel.
8. On distillate, condensate, or similar natural resources, severed from the soil or water either with gas or oil, 20 cents per barrel.
9. Natural gasoline, 2 cents per barrel.
10. The tax on natural gas is three-tenths of one cent per thousand cubic feet, measured at ten ounce pressure.

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[32] Ibid.

[33] Ibid.

[34] Ibid., p. 4.

[35] Ibid., pp. 4-5.

The rates which apply to other minerals and natural resources are:[36]

1. On sulphur, $1.03 per long ton 2,240 pounds.
2. On salt, 6 cents per ton of 2,000 pounds.
3. On coal, 10 cents per ton of 2,000 pounds.
4. On lignite, 10 cents per ton of 2,000 pounds.
5. On ores, 10 cents per ton of 2,000 pounds.
6. On marble, 20 cents per ton of 2,000 pounds.
7. On stone, 3 cents per ton of 2,000 pounds.
8. On gravel, 3 cents per ton of 2,000 pounds.
9. On sand, 3 cents per ton of 2,000 pounds.
10. On shells, 4 cents per ton of 2,000 pounds.

The taxes are collected quarterly by the Collector of Revenue, who pays them to the State Treasury. All of the severance taxes collected on oil, gas, salt, shells and all other natural resources are placed in a Severance Tax Fund. One-third of the severance taxes collected on sulphur not to exceed one hundred thousand dollars to any parish in any one year and one-fifth of the severance taxes collected on oil, gas, salt, coal, lignite, ores, timber, marble, stone, gravel, sand, and shells are allocated to the Parish from which the taxes were collected, not to exceed two-hundred thousand dollars to any one parish for any one year.[37]

The payment of the severance tax is in addition to all other property taxes imposed by the state, parochial, or municipal. There can be no further or additional tax or license imposed upon oil or gas leases or rights, and no additional value will be added to the assessment of land by reason of the presence of oil or gas production from the land.[38]

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[36] *Ibid.*, p. 5.

[37] *Ibid.*, p. 6.

[38] *Ibid.*, p. 12.

Severance Taxes of Michigan

Michigan was one of the earlier states to enact a severance tax law on oil and gas. The first severance tax law of Michigan was passed in 1929.[39] The law provides for a tax of two percent of the cash value of all oil and gas sold. In 1939 a privilege fee of one-eighth of one cent per barrel was levied upon all oil produced in the state.[40] This tax is in the nature of a severance tax or gross production tax but is called a privilege tax. Both the two percent tax and one-eighth cent per barrel privilege tax are paid to the Michigan Tax Commission and are turned in to the general fund of the state.

Minnesota Severance Tax

The Minnesota severance tax law applies only to mining or mining royalty.[41] In 1947 Minnesota enacted an occupation tax on every person engaged in the business of mining or producing iron ore or other ores in the state. The tax is levied at the rate of eleven percent of the valuation of all ores mined or produced. The tax is in addition to all other taxes and is due and payable by the people involved by May 1 or each year.

In 1956 an additional tax of fifteen percent of the first tax was imposed to be paid for two taxable years beginning after December 31,

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[39] Michigan State Legislature, Public Acts of 1929 (Lansing: Michigan State Printer, 1929), Act No. 48.

[40] Michigan State Legislature, Public Acts of 1939 (Lansing: Michigan State Printer, 1939), Act No. 61.

[41] Minnesota State Legislature, Minnesota Statutes 1957 (Saint Paul: Department of Taxation, 1958), p. 1.

1956.[42] Both of these taxes are in the nature of severance taxes because they are based on the value of the ore severed from the earth.

In 1947 the Minnesota Legislature also enacted a tax upon royalties received for permission to remove ore from land.[43] This tax is levied at eleven percent of the value of all royalty received during each calendar year for permission to explore, mine take out and remove ore from land in the state. In 1956 an additional tax of fifteen percent of the amount of the first tax was imposed upon royalty, which was to be paid for two years beginning after December 31, 1956. Both of these taxes were in addition to all other taxes.[44]

Severance Taxes of Mississippi

A privilege tax relative to oil mined or produced was enacted in 1944 by the legislature of the state of Mississippi.[45] The tax is levied upon every person engaging or continuing to engage within the state in the business of producing, or severing from the soil or water for sale, transport, storage, profit or for commercial use. The rates of the tax are six cents per barrel, or six percent of the value of the oil at the point of production, whichever is greater.[46]

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[42] Ibid.

[43] Ibid.

[44] Ibid.

[45] Mississippi State Legislature, Mississippi Laws of 1944 (Jackson: State Tax Commission, 1944), House Bill No. 23 p. 3.

[46] Ibid., p. 6.

The taxes collected are allocated two-thirds to the state and one-third to the county on the first $600,000 collected. On the next $600,000 ninty percent to the state and ten percent to the county. All collections exceeding $1,200,000 are divided ninty-five percent to the state and five percent to the county.[47]

The law exempts all oil and producing equipment which belongs to the producer and all leases in production including mineral rights from all ad valorem taxes. The law requires that no additional assessment be added to the surface value of land by reason of the presence of oil under the ground.[48]

The Mississippi legislature enacted a natural gas severance tax law in 1948.[49] The natural gas law is identical to the oil law except that it applies to natural gas and the tax rate is six percent of the value of the natural gas at the point of production or at the rate of three mills per one thousand cubic feet, whichever rate is greater.

Mississippi also has a timber production tax which is only a minor source of revenue.[50]

Montana Severance Tax Law

The Montana Producers Tax Law which was passed in 1947 is essentially a severance tax law.[51] The law provides that every person carrying

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[47] Ibid., pp. 6-7.

[48] Ibid., p. 12.

[49] Mississippi State Legislature, Mississippi Laws of 1948 (Jackson: State Tax Commission, 1948), House Bill No. 485. p. 1.

[50] Ibid., p. 2.

[51] Montana Board of Equilization, Summary of Oil Producers License Law Title 84 (Helena: Montana Board of Equilization, 1957), p. 1.

on the business of producing petroleum or other mineral oil in the state must pay the state a license tax for carrying on such business. The rates amount to two percent of an amount determined by multiplying the number of producing wells of such person on each lease by the total gross value of the first 450 barrels of petroleum or other mineral oil produced from a lease in each calendar quarter. This constitutes one rate of the law, the other rate is two and one-half percent of the total gross value of all such production of such person over the first 450 barrels per calendar quarter.[52] This license tax is an addition to all taxes and other fees required to be paid by persons subject to this act.

Nebraska Severance Tax

The Nebraska severance tax law is comparatively new being passed in 1955.[53] The law is an excise tax upon oil and natural gas severed from the soil in the state. The tax is levied upon the value of the resources severed at the rate of two percent of the value of the oil or natural gas.[54] The taxes collected are placed in a Severance Tax Fund and are used to administer the act. Any revenue in excess of expenses is credited to the Permanent School Fund.

Severance Tax of Nevada

The severance tax law of Nevada was enacted as a conservation tax on oil and gas.[55] The tax rate is five mills per barrel of oil or 50,000

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[52] *Ibid.*

[53] Nebraska State Legislature, *Legislative Bill 216,* (Lincoln: Nebraska State Tax Commission, 1955), p. 4.

[54] *Ibid.* p. 2.

[55] Statement by R. E. Cahill, Nevada Tax Commission, personal letter.

cubic feet of gas. The main purpose of the tax is to provide for the administration of the conservation laws. Nevada also has a severance tax on the proceeds of mines which was a minor revenue producer in 1958.[56]

New Hampshire Severance Tax

New Hampshire has a severance tax which applies only to growing wood and timber.[57] The tax is levied on the yield of timber production and amounts to only a minor source of revenue.

Severance Taxes of New Mexico

The severance tax laws of New Mexico were first adopted in 1927.[58] The taxes levied under the law are upon the gross value of products severed and saved from the soil. The tax rates are: on potash two and one-half percent; on oil two and one-half percent; on natural gas two and one-half percent; on copper one-half of one percent; on uranium one-half of one percent; on coal, gold, lead, silver, zinc, timber, molybdeum, manganese, fluorspar, pumice and all other natural resource products one-eighth of one percent.[59]

In 1958 the tax on oil and gas raised 92.8 percent of the total severance tax collections in New Mexico, potash taxes amounted to 5.07

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[56]Nevada State Legislature, _Act Relating to New Proceeds of Mines_, (Carson City: Nevada State Tax Commission, 1939), p. 1.

[57]Statement by L. B. Chanalee, Secretary, New Hampshire Tax Commission, personal letter.

[58]New Mexico State Legislature, _Session Laws of 1937_ (Santa Fe: Bureau of Revenue, 1957), p. 1.

[59]_Ibid._, p. 3.

percent, uranium 1.2 percent, copper .87 percent and all others .06 percent.[60]

The taxes are collected by the Bureau of Revenue and paid over to the State Treasurer. The State Treasurer deducts three percent of the total collected and puts it in the severance tax administrative fund, the remainder is credited to the general fund of the state.[61]

The payment of the severance taxes levied are in addition to ad valorem property taxes levied by county, city, or district. The law provides that no severance tax may be levied by the county, or other political subdivision of the state.[62]

North Dakota Severance Tax

The North Dakota legislature has enacted a severance tax law pertaining to crude oil and natural gas.[63] Further information is unavailable at this time.

Oklahoma Gross Production Tax Law

The Oklahoma severance tax as amended through 1955 imposes a tax of three-fourths of one percent on the gross value of asphalt, ores bearing lead, zinc, jack gold, silver and copper; and tax equal to five

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[60] Severance Tax Division, Bureau of Revenue, Severance Tax Collections For The Calendar Year 1958 (Santa Fe: Bureau of Revenue, 1958), p. 1.

[61] New Mexico State Legislature, op. cit., p. 4.

[62] Ibid., p. 8.

[63] United States Department of Commerce, Bureau of Census, Compendium of State Government Finances in 1958 (Washington: Government Printing Office, 1958), p. 20.

percent of the gross value of the production of petroleum or other crude mineral oils, and natural gas.[64]

The first Oklahoma severance tax laws, taxing oil and gas separately were passed in 1910. They taxed the gross revenue of oil and gas in addition to the ad valorem property tax. In 1913 the gross production tax was to be in lieu of ad valorem property tax.[65] At the present time payment of the severance taxes is in lieu of all taxes imposed by the state, counties, cities, town, townships, school districts, and other municipalities upon any property rights attached to the minerals, or upon producing leases, machinery, appliances or equipment used in or around any producing oil or gas well or mine.[66]

The severance taxes collected are apportioned seventy-eight percent to the state general fund, two percent to the Oklahoma Tax Commission Fund, twenty percent to the counties from which the taxes were collected. One-half of the amount paid to the counties is to be used for construction and maintenance of county highways and one-half is to be apportioned to the school districts of the counties.[67]

In addition to the Gross Production Laws, Oklahoma levies an excise tax of one-eighth of one percent per barrel on all oil produced in

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[64] Oklahoma State Legislature, Gross Production Tax Law and Petroleum Excise Tax Law, 1955 (Oklahoma City: Oklahoma Tax Commission, 1955), p. 6.

[65] Robert Lee Sandmeyer, "An Economic Analysis of the Oklahoma Gross Production Tax With Particular Application to Oil and Gas" (Unpublished Master's thesis, Oklahoma State University, 1958), p. 7.

[66] Oklahoma State Legislature, op. cit., p. 7.

[67] Ibid., p. 12.

the state which is subject to the gross production tax. An excise tax of two-one hundredths of one cent per thousand cubic feet of all natural gas produced in the state is imposed upon natural gas production. The taxes collected from the two excise taxes are paid to the Conservation Fund and Interstate Oil Compact Fund of Oklahoma, to pay for administrative expenses.[68]

Oregon Severance Taxes

According to Larry Warren, Information-Education Representative of the Oregon State Tax Commission, Oregon has no mines or oil wells in operation on a production basis but does have a law covering their taxation. The law stipulates that whenever timber, or any mineral rights are owned separately from the land they will be assessed and taxed as real personal property in the name of the owner separately from the surfact rights and interests in the real property.[69]

This tax does not fit the classification of a severance tax in the strictest sense of the word. It is a property tax which applies to natural resources which are severable from the land.

Oregon does have a timber severance tax and a fish poundage tax but their revenue collections are rather small.[70]

Severance Taxes of South Dakota

The state of South Dakota has a severance tax on iron ore which was enacted in 1939.[71] In 1957 the laws were amended and now provide a

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[68]Ibid., p. 23.

[69]Statement by Larry Warren, Information-Education Representative of the Oregon State Tax Commission, personal letter.

[70]United States Department of Commerce, Bureau of Census, loc. cit.

[71]South Dakota State Legislature, Supplement to the South Dakota Code of 1939, (Pierre: Department of Revenue, 1957), p. 1

tax upon every person engaging in the business of mining, severing, or extracting from the lands the natural resources of the state. The tax is imposed at the rate of two and one-half percent of the value of the article produced.[72] The law provides that the tax becomes due at the time of severance from the earth and that the tax collected is to be credited to the general fund of the state.

Severance Tax Laws of Texas

Texas law makers first enacted a severance tax on oil in 1905.[73] At the present time a tax is levied at the rate of seven percent of the market value of natural gas as and when produced.[74] The natural gas taxes are paid to the comptroller who then pays them to the state treasurer, the treasurer sets aside one-half of one percent of the proceeds for the use of the comptroller in the administration and enforcement of the law.

The state of Texas levies an occupation tax on oil produced in the state of four and six-tenths percent of the market value.[75] This tax and the natural gas tax are both levied in addition to other property taxes. The oil tax collected is paid to the state treasurer who sets aside

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[72]South Dakota State Legislature, South Dakota Laws of 1957 (Pierre: Department of Revenue, 1957), p. 2. House Bill No. 646.

[73]Kansas Independent Oil and Gas Association, Taxes on Oil and Gas Properties in Kansas (Wichita: Kansas Independent Oil and Gas Association, 1957), p. 52.

[74]Texas State Legislature, Tax Laws, Oil-Gas-Sulphur (Austin: State Comptroller, 1951), p. 3.

[75]Ibid., p. 13.

one-half of one percent to be used by the comptroller in the administration and enforcement of the provisions of the law.[76]

Texas also levies an occupation tax of one dollar and forty cents per long ton on all sulphur produced in the state. This tax is allocated in the same manner as the oil and gas taxes.

Texas raised more revenue from the severance tax than any other state. In fact the amount collected by Texas was nearly one-half of the amount collected by all the states which use the severance tax.[77]

Utah Severance Taxes

Utah imposes an occupation tax on every person engaged in the business of extracting ore or metal containing gold, silver, copper, lead, iron, zinc, tungsten, uranium or other valuable metal in the state. The tax is levied at one percent of the gross value of the products sold.[78]

Both taxes are in addition to all other taxes provided by law. An annual exemption is allowed of $50,000 in gross value of the ore, metals or the value at the well of oil, gas, or other hydrocarbons. The exemption is allowed to each mine, well or wells.[80] Well or wells refers

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[76] Ibid., p. 20.

[77] United States Department of Commerce, Bureau of Census, loc. cit.

[78] Utah State Legislature, "Mining Occupation Tax," 1956 Utah Statutes (Salt Lake City: State Tax Commission of Utah, 1956), p. 4.

[79] Ibid.

[80] Ibid.

to the producing units in each oil or gas structure.

The law provides that each person involved in mining or oil production shall make annual reports or production, and the producers of the minerals are required to deduct the tax imposed from amounts due to other owners.

Severance Tax Law of Virginia

In 1956 the Virginia Forest Products Tax was passed.[81] The purpose of the act is to provide for conservation of the natural resources of the state. The tax is levied upon every person engaging in the business of severing timber or any other forest products from the soil, for sale, profit, or commercial use, whether as an owner or producer.

The tax rates imposed are all based upon one thousand board feet, and are on pine and cedar fifteen cents, on hardwood and cypress seven and one-half cents, on timber sold as logs fifteen cents, and on veneer logs fifteen cents.[82]

The tax is paid to the Department of Taxation and is paid by it into the state treasury. The money is placed in the Protection and Development of Forest Resources of the State Fund and is used for the purpose of protection and development of the forest resources of the state.[83]

Virginia also has a severance tax on oysters which is only a minor revenue producer.[84]

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[81] Virginia State Legislature, "Virginia Forest Products Tax Law," 1948 Code of Virginia (Richmond: Department of Taxation, 1956), p. 3.

[82] Ibid., p. 4.

[83] Ibid., p. 6.

[84] United States Department of Commerce, Bureau of Census, loc. cit.

Wisconsin Severance Tax

Wisconsin has a severance tax on timber. No details of the law were available but taxes collected amounted to a minor source of revenue in 1958.[85]

Conclusion

The data with regard to the type of natural resource on which the severance tax is levied is presented in Table VII. The reader will notice a severance tax on oil and natural gas is the most widely used, followed by a tax upon mining of minerals and other ores, a tax upon timber and forest products, a tax upon fish and oysters, a tax upon sulphur, a tax upon sand, and a tax on other resources in that order.

One reason for the wide spread use of oil and gas as a tax base is that they are found in large quantities in many states. A second reason is that the production of these two resources creates a large amount of dollars because the prices of the two resources are relatively high. This makes the payment of a tax much easier for oil and gas producers than for producers of some of the less valuable natural resources.

Table VIII presents data on severance tax collections for each state and the type of severance tax used, for the years of 1957 and 1958.

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[85] *Ibid.*

TABLE VII

TYPE OF SEVERANCE TAX BY STATE

State	Oil	Gas	Mining Coal Zinc Other Ores	Sulphur	Sand Gravel Stone	Fish Oysters	Timber Forest Products	Other Natural Resources
Alabama	X	X	X				X	
Alaska	X	X	X			X		X
Arkansas	X	X	X	X	X		X	X
California	X	X				X		
Colorado	X	X	X					
Florida	X	X				X		
Idaho			X					
Indiana	X	X						
Kansas	X	X						
Kentucky	X							
Louisiana	X	X	X	X	X		X	X
Michigan	X	X						
Minnesota			X					
Mississippi	X	X					X	X
Missouri			X					
Montana	X	X	X					
Nebraska	X	X						
Nevada	X	X						
New Hampshire							X	
New Mexico	X	X	X				X	X
North Dakota	X	X						
Oklahoma	X	X	X			X	X	
Oregon			X			X	X	
South Dakota			X					
Texas	X	X		X				
Utah	X	X	X					
Virginia						X	X	
Wisconsin							X	

TABLE VIII

SEVERANCE TAX COLLECTIONS IN DETAIL, BY STATES: 1958 and 1957*
(In thousands of dollars)

State	Type	1958 (prelim.)	1957
Alabama	Iron ore tonnage	163	193
	Oil and gas	349	281
	Production privilege	697	558
	Forestry products	357	394
	Shrimp and oyster	5	5
	Total	1,571	1,431
Alaska	Total	(NA)	1,726
Arkansas	General	4,829	4,138
	Timber	569	662
	Total	5,399	4,760
California	Fish	402	599
	Petroleum and gas	734	608
	Total	1,136	1,207
Colorado	Oil and gas production gross income	2,599	3,803
	Oil and gas conservation	114	116
	Coal tonnage	22	22
	Total	2,735	3,941
Florida	Oil and gas	51	48
	Oysters	2	2
	Total	53	50
Idaho	Mining privilege, total	89	108
Indiana	Petroleum productinn, total	359	355
Kansas	Natural gas	216	233
	Oil proration	154	153
	Oil production	96	102
	Oil and gas severance	2,020	---
	Total	2,487	488

(continued)

Table VIII, continued.

State	Type	1958 (prelim.)	1957
Kentucky	Oil productinn, total	249	256
Louisiana	Oil	61,615	66,449
	Distillate	7,612	6,638
	Gas	5,991	5,423
	Sulphur	2,177	2,454
	Shell	199	464
	Timber	399	425
	Gravel	274	321
	Pulpwood	253	219
	Gasoline	191	191
	Other	37	298
		78,748	82,882
Michigan	Oil and gas, total	614	653
Minnesota	Mining occupatinn	33,711	28,203
	Mining royalty	3,574	3,497
	Total	37,285	31,700
Mississippi	Oil	7,172	7,323
	Natural gas	1,300	1,423
	Timber	500	613
	Other	71	78
	Total	9,042	9,437
Missouri	Mining, total	6	13
Montana	Oil production	2,000	1,306
	Metal mines	954	1,985
	Natural gas	191	151
	Coal production	11	24
	Vermiculite	6	6
	Total	3,162	3,472
Nebraska	Oil and gas, total	1,169	1,003
Nevada	Proceeds of mines, total	84	167
New Hampshire	Timber yield, total	19	22

(continued)

Table VIII, continued.

State	Type	1958 (prelim.)	1957
New Mexico	Oil and gas and other, total	8,859	7,844
North Dakota	Oil and gas production, total	1,895	1,581
Oklahoma	Gross production, oil and gas	33,716	33,605
	Petroleum excise	396	409
	Total	34,112	34,014
Oregon	Timber	471	596
	Fish Poundage	161	154
	Total	632	750
South Dakota	Ore, total	527	748
Texas	Crude Oil	134,396	149,967
	Natural and casing head gas	42,003	40,608
	Sulphur	4,846	5,491
	Oil and gas regulation	1,771	2,042
	Total	183,016	198,108
Utah	Mine occupation	2,126	2,766
	Oil and gas production	33	9
	Total	2,160	2,775
Virginia	Forest products	162	164
	Oysters	89	91
	Total	251	255
Wisconsin	Timber, total	236	218
Total collections in United States		376,000	388,000

*Bureau of Census, Detail Of State Tax Collections in 1958 (Washington: Government Printing Office, 1958.)

CHAPTER VI

CONCLUSIONS

Recent years have witnessed widespread use of the severance tax. At this date twenty-eight states have enacted some type of severance tax law and California has the proposal of a severance tax before the state legislature.

The purposes of this study have been to determine the strengths and weaknesses of the severance tax, to study the methods of administering the severance tax, and to examine the severance tax history of Kansas.

Students of taxation contend that a severance tax is the fairest and most equitable method of taxing natural resources, especially those which are irreplaceable and diminishing in quantity such as oil and natural gas. The reasoning is that the natural resources are a product of nature and are a heritage of the people as a whole and not of a few individuals. Also this type of tax aids conservation by decreasing exploitation whereas certain other taxes are thought to have the opposite effect. Ad valorem property taxes for example will tend to increase exploitation of natural resources because the owner must pay a tax on the natural resources as long as they are on the property.

The severance tax is an excellent revenue producer. If a state is wealthy in natural resources a severance tax can be a major producer of the total taxes collected. Texas, for example, obtains nearly one-third of its state revenue from severance taxes.

From the administrative point of view the severance tax is much easier to administer than, for example, the ad valorem property tax. Natur-

al resources are uniquely difficult to appraise, especially oil and natural gas which cannot be seen. The ad valorem taxation of these two minerals is especially difficult because of the impossibility of properly assessing the oil and gas underground. The severance tax on the other hand is levied only on the minerals which are actually produced or severed from the land. The assessment and collection of the severance tax is easier than that of the ad valorem property tax because the producer simply makes out a return showing the amount he has produced and pays the percentage levied. Ad valorem property taxation requires first an assessment of the property, then the rate must be applied to the amount of the assessment before a producer can receive his tax bill. It seems evident that the legislators of the twenty-eight states which have some type of severance tax have recognized this particular merit of the severance tax.

When the arguments for and against a severance tax are given careful consideration, it is the conclusion of the writer that the arguments for outweight those against. The natural resources are a heritage of the people and should be shared by everyone not by just a few individuals. The severance tax will take some of the profit from the production of the natural resources and use it for the benefit of all the people.

The people who would be subject to a severance tax have the ability to pay. Oil and natural gas producers of Kansas, for example, have the ability to pay a severance tax if the oil and gas producers of the other nineteen states which have severance taxes on oil and gas can pay, because production costs in Kansas are lower than those of most other states.

Another factor favoring a severance tax is the ease of administration of the tax. Assessment is not a problem as it is for the ad valorem

property tax, because a severance tax is imposed on the amount of natural resources severed from the earth. The costs of administration are reasonably low because most of the record keeping is done by the producer not the state tax department.

The natural resources being depleted will be lost forever as a tax base and from the use of the people because it takes nature years to reproduce them. A severance tax offers the people some type of payment for these losses.

The contention that the state economy would suffer if the severance tax were passed in Kansas because oil producers would drop wildcat leases is used by opponents of a severance tax on oil and gas. The facts show that the states Oklahoma, Texas and Louisiana all have severance taxes and they lead the United States in production. Oklahoma and Texas lead the United States in the number of wildcat wells drilled per year. Considering these facts it seems that a severance tax would not greatly effect the number of wildcat wells drilled in Kansas because the tax is on the producing of oil and natural gas not on holding leases or drilling wildcat wells.

A severance tax will pose problems for local taxing units according to the opponents of a severance tax. It is true that this tax would be a problem to local taxing units but this problem can be solved. A severance tax law can provide for a method of allocating back to the counties part of the tax which was collected from that county or the tax might be imposed in-addition-to the ad valorem property tax.

There is the contention that a severance tax would drive out the oil industry. The best counter to this argument is that nineteen states

levy a severance tax on oil and natural gas and they have not driven out the oil industry.

An argument that a severance tax will hurt producers of marginal wells has been used as a reason for not having a severance tax. Marginal wells can be provided for in any severance tax law by exempting the first few barrels from the tax.

Groups opposing a severance tax also contend that a severance tax would discriminate between the independent and major oil producer; between other states; and between other minerals.

The writer cannot see discrimination between the independent and the major oil producers because they must both pay the tax. The contention is made that major oil producers would be able to pass the tax on to the consumer while the independent must pay his own tax. Taxation authorities conclude that even though there is a substantial element of monopoly in the oil industry producers would have already been charging whatever price which yielded the maximum profit. This fact would make it difficult to pass the tax on to the consumer.

A severance tax in Kansas would not discriminate between other states because the other states surrounding Kansas have severance tax laws and also have higher production costs.

No discrimination between other minerals would be present if a provision exempting marginal wells were incorporated in a severance tax law because most other minerals are classified as marginal industries.

Some of the arguments against the use of a severance tax are valid as has been noted earlier but these arguments can be resolved by the provisions included in a severance tax law. The groups who question a

severance tax are those groups who would have to pay the tax and do not want an additional tax burden. Oklahoma has worked out a severance tax which satisfies both the need for revenue and the producers of the natural resources.

The state of Kansas has had a severance tax proposal in the legislature at almost every session. All attempts to enact a severance tax law in Kansas have failed except for one which was signed into law in 1957. This law was short lived for it was declared unconstitutional in 1958 by the Kansas Supreme Court due to the fact that the subject of the tax was not clearly expressed in its title as is required by the Kansas Constitution. This has not discouraged the legislature from proposing other severance tax laws since that time.

The opposition to a severance tax is strong in Kansas. The oil industry realizes that it is getting by much cheaper on its tax bill than other states in the area and they use every method possible to defeat severance tax proposals.

The Kansas Independent Oil and Gas Association seems to favor the type of severance tax used by Oklahoma. The main reason they favor this tax is that it is imposed upon oil and natural gas in lieu of ad valorem property taxes and also excludes machinery used in the production of those natural resources. They say that the Oklahoma severance tax law is clear, simple and effective.

If Kansas legislators would work out a severance tax system which is in lieu of the ad valorem property taxes it is the writer's opinion that it would be enacted into law. This type of tax will create problems with the financing of county and local governments but they can be solved

by providing a method of allocating a certain percentage of the tax collected back to the county from which it was collected, in the severance tax law.

In the discussion of severance tax laws used by other states, it was noted that many of the laws are of a similar nature. The tax rates or the resources on which the tax is levied might be different, but methods used are similar. Most laws provide a method to collect the tax. This method is usually one which requires the producer to keep records of his production, to figure the amount of the tax due to the state and to pay the tax at a certain date. Many laws provide penalties to parties who are guilty of not keeping the required records or who do not pay the required tax. Another similarity is that most laws provide where the tax revenue collected will be used.

The over-all success of the severance tax is hard to measure as is the over-all success of any other tax. There no doubt has been some dissatisfaction with the tax as is the case with any tax. The severance tax has been successful in providing a larger amount of revenue for state governments. Total severance tax collections in the United States have increased over four times since 1945.

The natural resources which are the target of most severance tax laws are oil and natural gas. States which levy a severance tax on oil and gas include, Alabama, Alaska, Arkansas, California, Colorado, Florida, Indiana, Kansas Kentucky, Louisiana, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Texas, and Utah. Severance taxes collected in these states account for the bulk of the total severance taxes collected in the United States.

States which levy a severance tax on mining and on ores are Alabama, Alaska, Arkansas, Colorado, Idaho, Louisiana, Minnesota, Missouri, Montana, New Mexico, Oklahoma, Oregon, South Dakota, and Utah. This type of tax is the second most widely used.

A severance tax on timber production of some type is the third most widely used tax. States which levy this type of tax include Alabama, Arkansas, Louisiana, Mississippi, New Mexico, New Hampshire, Oregon, Virginia, and Wisconsin.

Alaska, California, Florida, Oregon, and Virginia have state laws levying a severance tax on fish and oysters.

Since the first severance tax was adopted by Michigan in 1846 the number of states using the tax has grown to twenty-eight. The total amount of severance tax collections peaked in 1957, at 388 million dollars, but declined in 1958 to 376 million dollars. The slight decline of collections in 1958 was possibly due to the unstable economic conditions of the country at that time. The wide spread use of the severance tax is proof of its value. It is the conclusion of the writer that the revenues from the severance tax will continue to grow. The only factor which will cause a decrease in its value will be the depletion of the natural resources which are used as a tax base. The extension of severance tax users depends upon whether new natural resources are discovered which will be in sufficient quantity to warrant the use of a severance tax in states which do not presently use the tax.

The severance tax fits the qualifications of a good tax. The tax is levied on producers who have the ability to pay, it is a just charge for the privilege of severing the natural resources which are a heritage

of the people, also easy to administer, and it is a new source of revenue for states which are rich in natural resources. The groups affected by the tax can justly be expected to pay their fair share for the irreplaceable resources which they sever from the earth.

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