

Approved: April 9, 1997  
Date

## MINUTES OF THE SENATE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Pat Ranson at 1:30 p.m. on March 10, 1997 in Room 531-N of the Capitol.

All members were present except:  
Sen. Hensley was excused

Committee staff present: Lynne Holt, Legislative Research Department  
Fred Carman, Revisor of Statutes  
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:  
Karen Warner, Senior Tax Manager, Deloitte & Touche'

Others attending: See attached list

Chairperson Ranson announced the Senate Utilities and House Utilities Committees are invited to participate in a tour of the Wolf Creek Nuclear Power Plant by Western Resources on Monday, March 17. A bus will be provided and will leave the Capitol between 11 and 11:30, with a box lunch being served on the bus and will return around 5 p.m. She asked that members let Jeanne know if they will be able to attend.

Sen. Ranson also announced William Steinmeier, former president of National Association of Regulatory Utility Commissioners, will make a presentation to the committee tomorrow.

Sen. Ranson then introduced Karen Warner, who spoke to the committee on tax implications of retail wheeling (Attachment 1). Ms. Warner pointed out the various taxes levied on electrical generation and discussed how competition may reduce the value of high-cost generation and the ramifications for local jurisdictions because of Kansas property tax and other taxes. She also pointed out that taxes are paid in the states where they operate because each state taxes differently. She continued by pointing out major taxes paid by utilities in Kansas, and those are listed on Page 13. The sources of the high overall tax level in Kansas are the property tax and the corporate income tax; in fact, Kansas is among the top ten states to be avoided based on its tax policy. Ms. Warner illustrated revenues and various tax costs by charts on Pages 19 through 23 and continued by comparing utilities to other industries and the tax burden on utility property to commercial and industrial property. She pointed out what this means to Kansas-based utilities entering competition and her analysis that Kansas produced electricity may bear a greater state tax burden than electricity produced outside the state. Other points are discussed on Page 27 as well as tax policy considerations when setting policy and conclusions on Page 35.

The committee discussed ramifications of an unlevel playing field and options and Ms. Warner recommended data from a State of Minnesota study, and Sen. Lee stated she has looked at that study, but is wanting data to support it. Ms. Warner said each state has authority to set taxing laws, and those companies that have an advantage will be the survivors. Ernie Lehman of Western Resources commented on the transportation problem and stranded costs by pointing out it has come down to East vs. West, with the West relying on power plants miles away. Walker Hendrix of CURB stated there are technological problems and that we do not have the infrastructure in place in this part of the country to build generating plants and offer power at a competitive rate. Sen. Barone asked Ms. Warner for one chart which would show the total tax burden per kilowatt hour, and she called attention to a chart on Page 22 which compares total state and local taxes per megawatt hours sold. The committee also discussed factors which contribute to rate differences, including transportation costs.

Meeting adjourned at 2:30.

Next meeting will be March 11.

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 10, 1997

NAME	REPRESENTING
Charley Young	Uia Christi
Shannon Green	KOPL
WALKER HENDRIX	CURB
Jim Langford	DOB
Lang Holloway	KCC
J.C. LONG	UtiliCorp United, Inc.
E. A. Lehman	Western Resources
Karen Warner	Deloitte & Touche
Tom Bruno	Allent Assoc.
John Miles	KCC
Wade Holthaus	Western Resources
Lew Jene Schneider	Ks Livestock Assoc
Koger Trautke	KCC
Amy Campbell	R. Rice Law Office
Aime Fox	Ks. Hosp. Ass'n.
Kim Gulley	League of KS municipalities
Robert M. Brown	PLD Dept Red
ED SCHAUB	WESTERN RESOURCES INC.
M. Shields	HNS

A. Martin      Western Resources Inc.  
 Inloe Hein      Hein & Weir



Attach 5

**Deloitte &  
Touche LLP**



***State of Kansas  
Senate Utilities Committee***

**Monday, March 10, 1997**

**ELECTRIC UTILITY INDUSTRY RESTRUCTURING:  
KANSAS TAXATION ISSUES**

**Karen L. Warner      Senior Tax Manager**

Senate Utilities  
3-10-97  
Att. 1

# AGENDA

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- **Background**
- **State and Local Taxation of Electric Utilities**
- **State and Local Tax Issues Arising From Competition/Deregulation**
- **Kansas Electric Utility Taxation: Issues and Analysis**
- **State and Local Tax Policy Considerations**

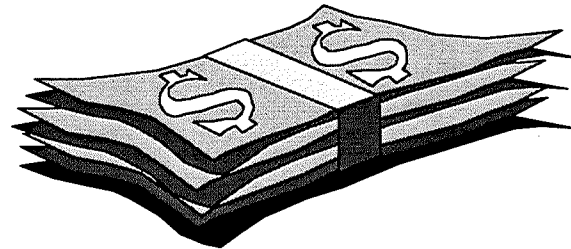
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# BACKGROUND

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## *Electric Utilities Are Major*

- **Taxpayers**
- and*
- **Tax collectors**

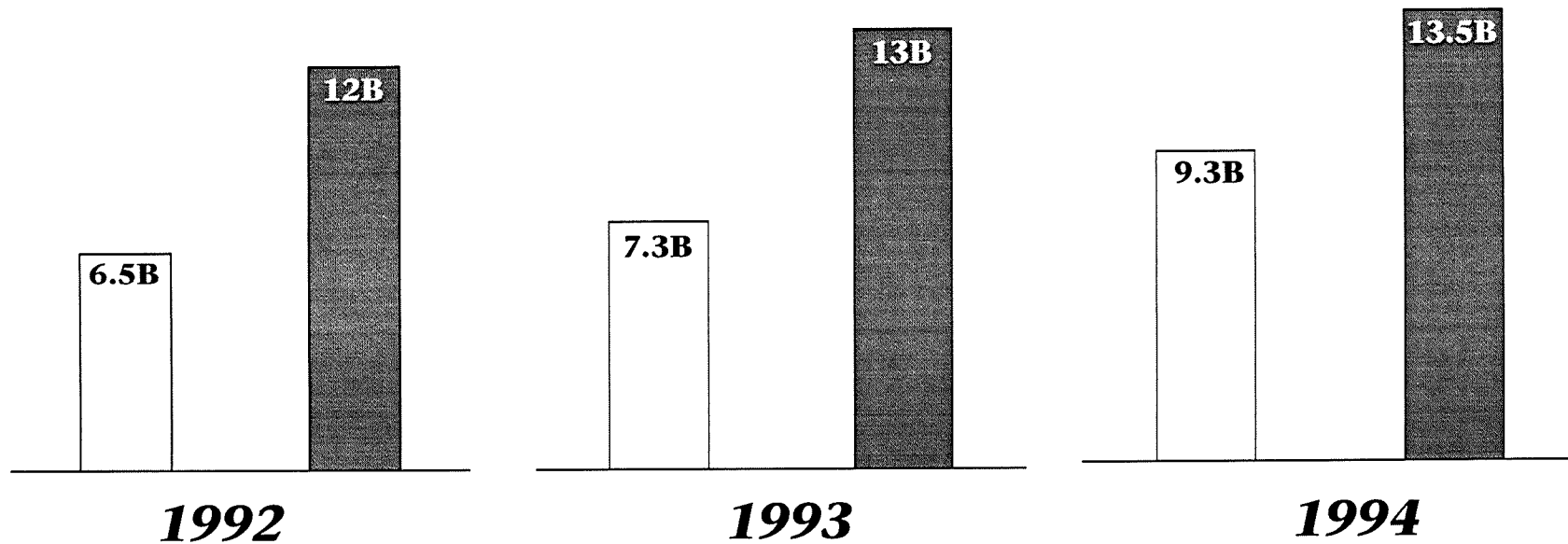


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# BACKGROUND

## *Taxes Paid by Investor-Owned Utilities*

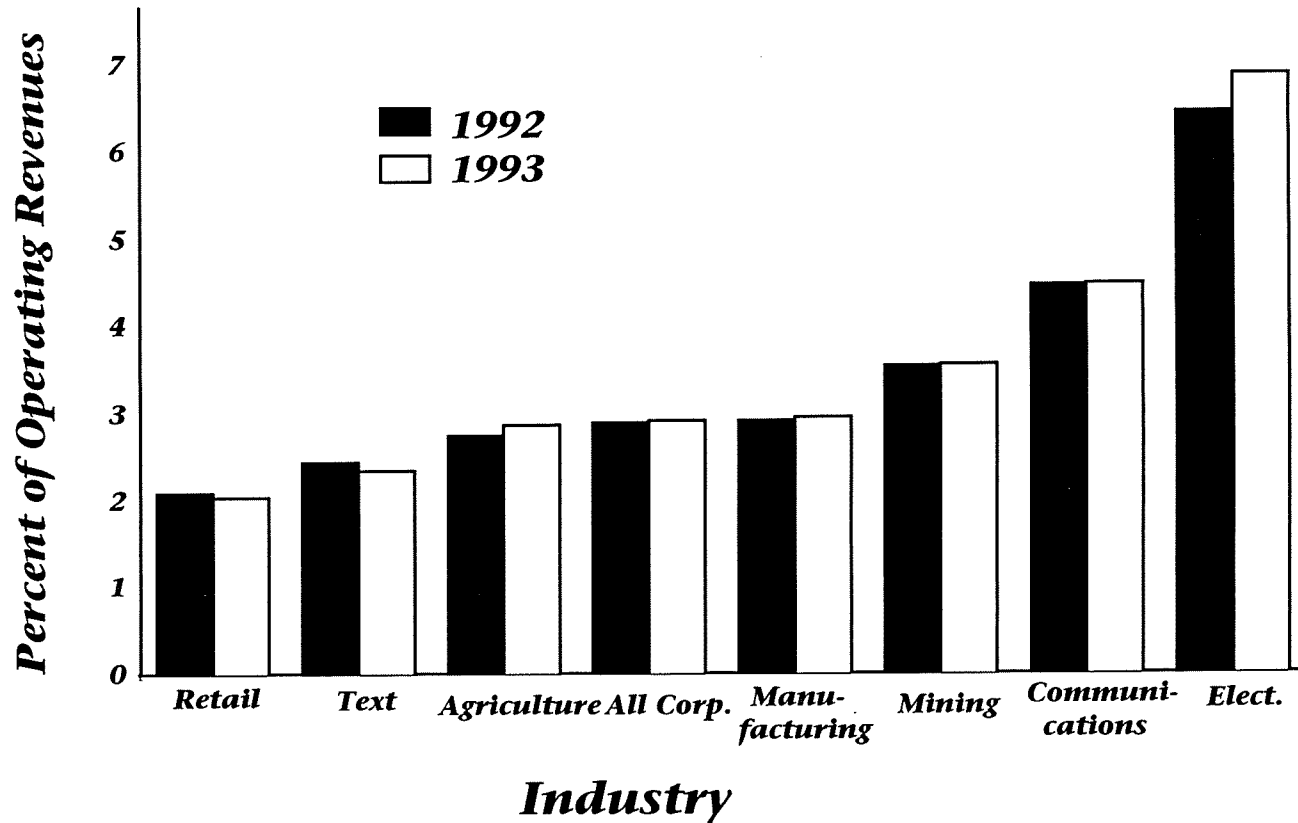


 *Federal income taxes*  
 *State and local taxes*

*Source: FERC Form No.1*

# PROJECT OVERVIEW AND BACKGROUND

## Industry Comparison of State and Local Taxes Paid



Source: Compiled by Edison Electric Institute ("EEI") from the *Source Book 1992, Statistics of Income, Corporation Income Tax Returns* and *Source Book 1993, Statistics of Income, Corporation Income Tax Returns*. Internal Revenue Service, Publication 1053, (Rev. 3-96)

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# BACKGROUND

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## *Taxation Is a Major Issue in Industry Transition*

- **Competition increases incentive to reduce all costs, including taxes.**
- **Increased interstate activity presents new complexities.**
- **Evolution of electricity market raises tax policy issues and revenue implications.**

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# STATE AND LOCAL TAXATION OF ELECTRIC UTILITIES

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## *State and Local Taxes Paid by Electric Utilities*

- **Property taxes**
- **Gross receipts taxes**
- **Sales and use taxes**
- **State income and franchise taxes**
- **Utility user taxes**
- **Regulator assessment fees**
- **Miscellaneous taxes and fees**

6-1

# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

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## *Major Issues*

- **Possible electricity price reduction**
- **Declining property tax assessments**
- **Market share of tax advantaged providers**

8-1

# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

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## *Possible Electricity Price Reduction*

- **A decrease in electricity prices may cause reduction in tax revenues.**
- **Economic theory suggests, however, that lower prices may increase demand; therefore, tax revenue impact over long term may not be significant.**

6-1

# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

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## *Declining Property Tax Assessments*

- **Competition may reduce value of high-cost generation property.**
- **Some high-cost generation property may be retired.**
- **Significant property tax revenue ramifications, particularly for local jurisdictions.**
- **Value of transmission and distribution property could increase in certain cases.**

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# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

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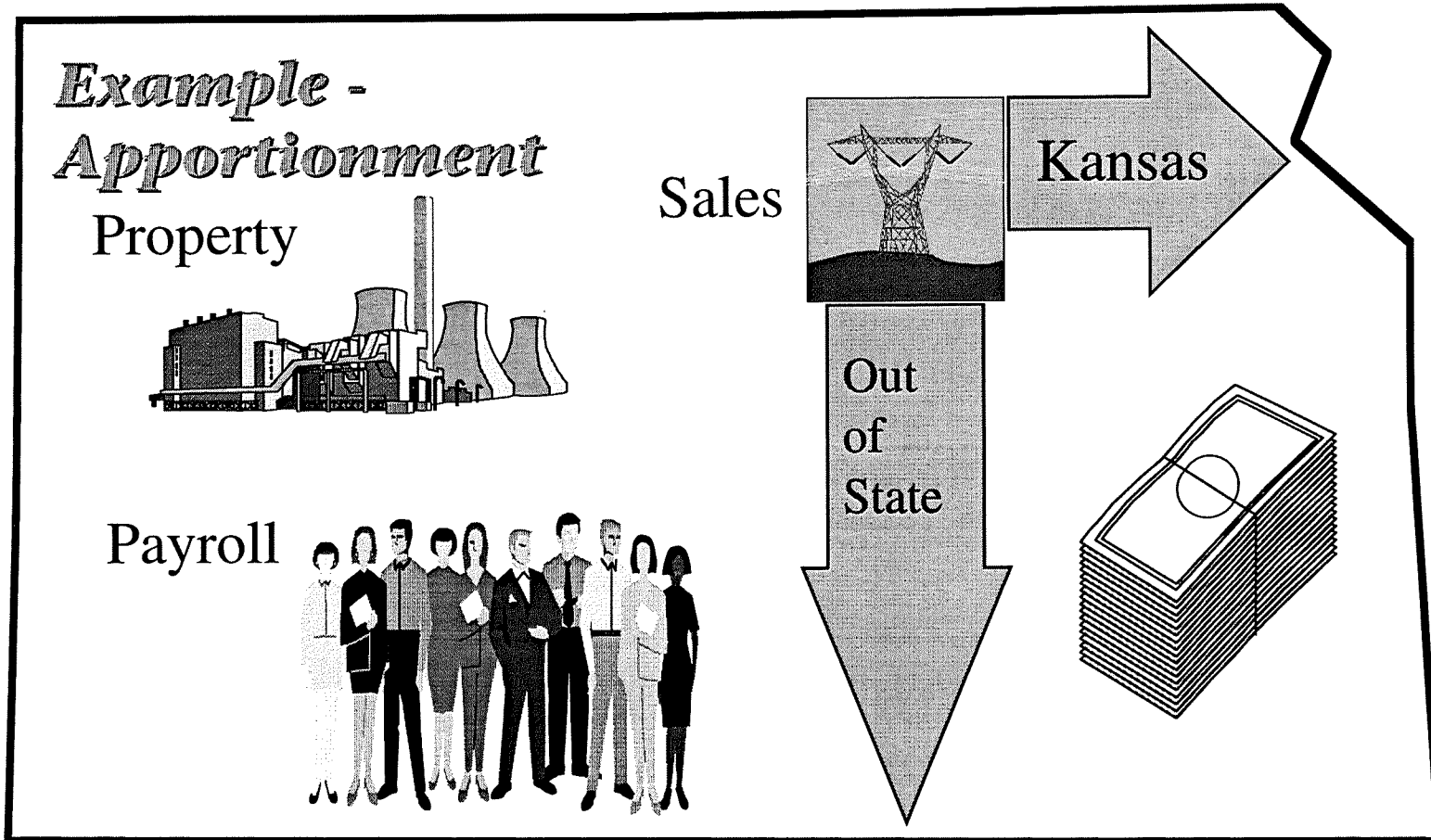
## *Market Share of Tax Advantaged Providers*

- **Regulated vs. Non-Regulated**
- **In-State vs. Out-of-State Providers**
- **Taxable vs. Non-taxable Providers**

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# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

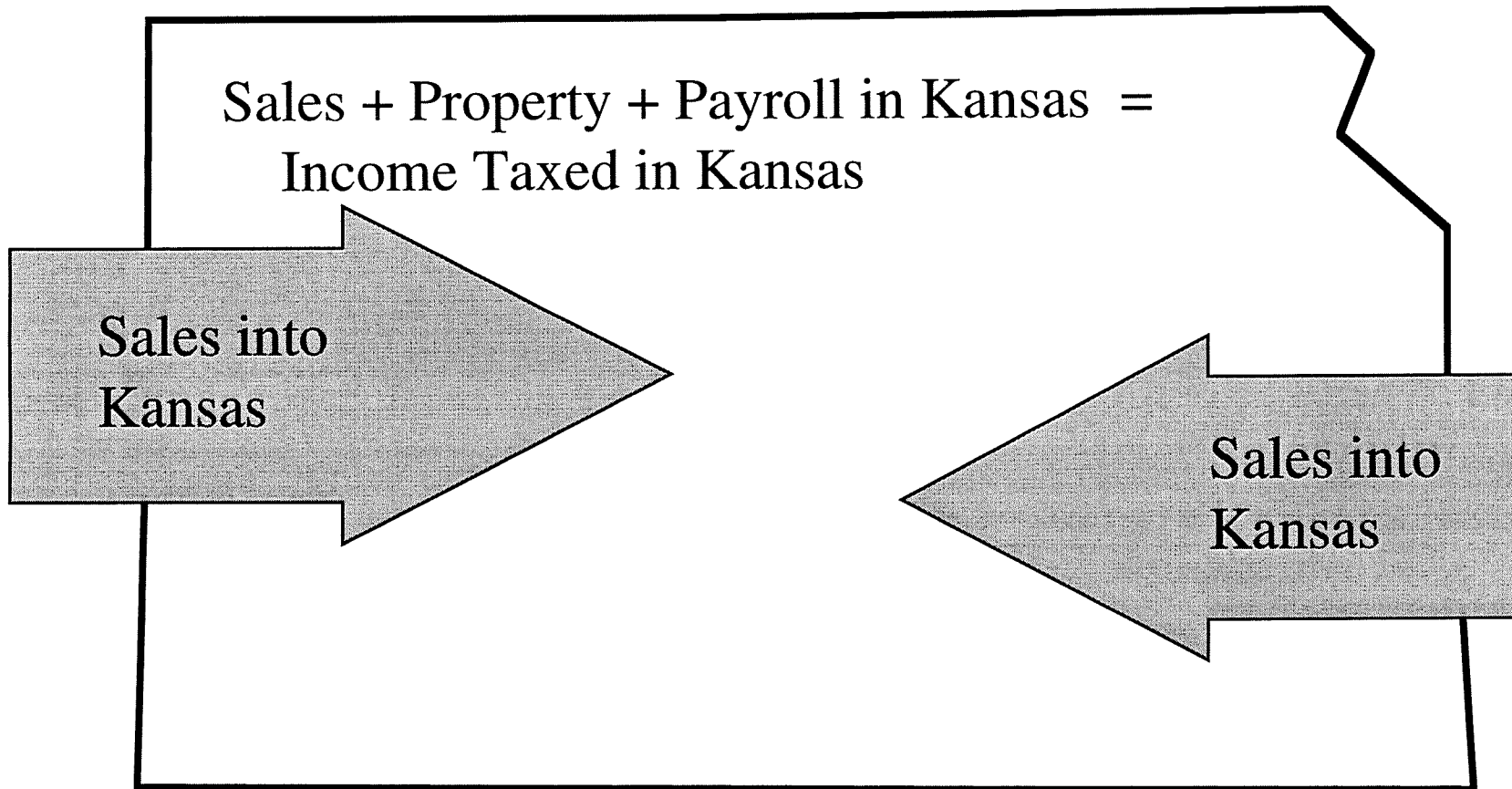


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# STATE AND LOCAL TAX ISSUES ARISING FROM COMPETITION/DEREGULATION

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# HOW DOES KANSAS TAX BURDEN COMPARE?

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- **Major Kansas Taxes Paid by Utilities:**
  - **Property Taxes**
  - **Sales and Use Taxes**
  - **Corporate Income Taxes**
  - **City Franchise**

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# HOW DOES KANSAS TAX BURDEN COMPARE?

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## CURRENT KANSAS BUSINESS TAX ENVIRONMENT

- **Kansas Governor's Tax Equity Task Force Issued its report in December 1995 - Key Findings Include:**
  - **"Under the current tax structure, Kansas stands out as the state in the region with the highest taxes on mature business. The sources of the high overall tax level on Kansas businesses are the property tax and the corporate income tax."**  
**(Charles Krider and Pat Oslund, University of Kansas. Emphasis added.)**

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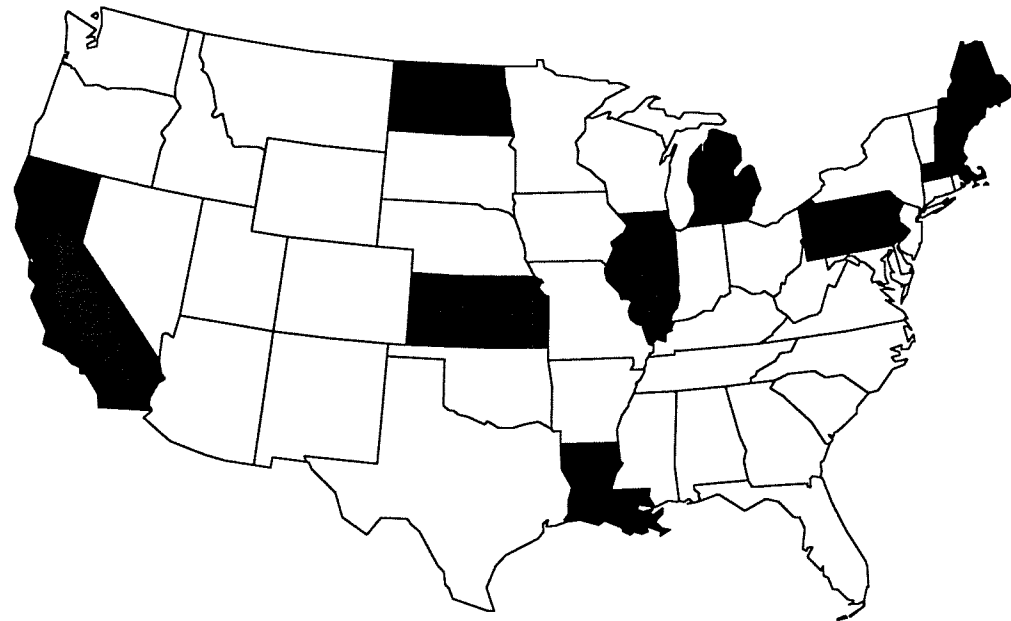
# HOW DOES KANSAS TAX BURDEN COMPARE?

## CURRENT KANSAS BUSINESS ENVIRONMENT

- CFO STATE TAX SURVEY

### Where to avoid:

The survey rated state tax policy influence on business decisions on a scale of 1 (very positive) to 5 (very negative). Kansas made the "Top Ten" list of states to avoid based on tax policy.



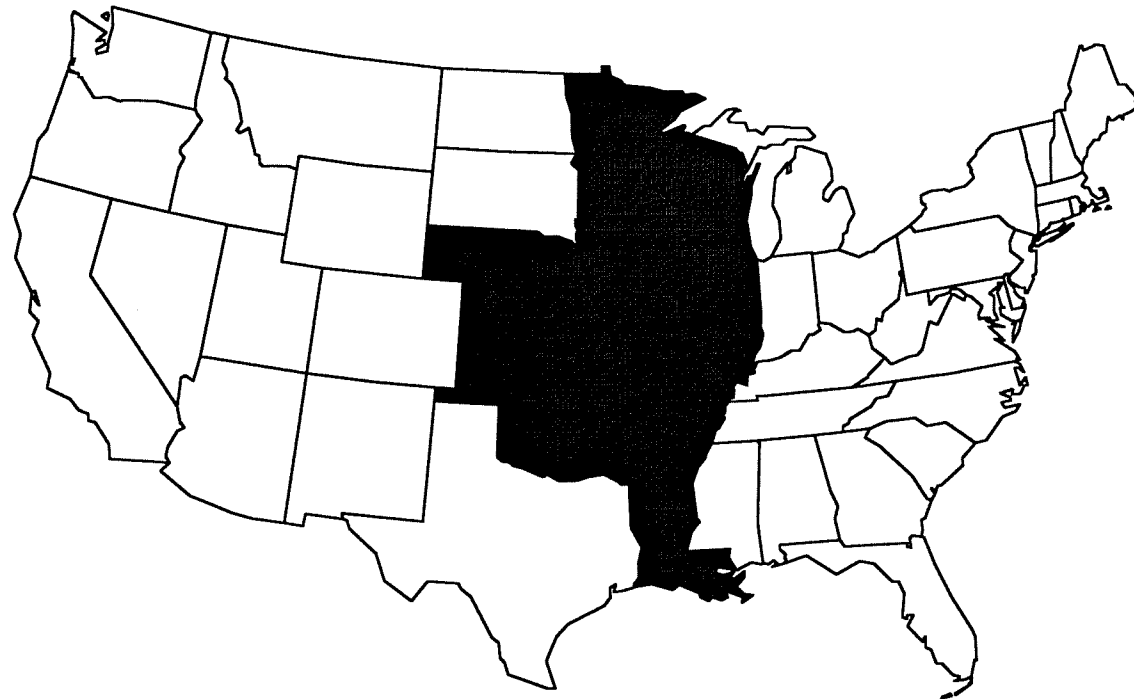
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# HOW DOES KANSAS TAX BURDEN COMPARE?

## ANALYSIS OF IN-STATE VS. OUT-OF-STATE ELECTRIC UTILITIES

**I.O.U.'s state tax burden in a region comprised of the following states:**

- **Kansas**
- **Nebraska**
- **Missouri**
- **Oklahoma**
- **Illinois**
- **Minnesota**
- **Wisconsin**
- **Iowa**
- **Arkansas**
- **Louisiana**



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# HOW DOES KANSAS TAX BURDEN ON I.O.U.'S (COMPARE TO OTHER STATES?)

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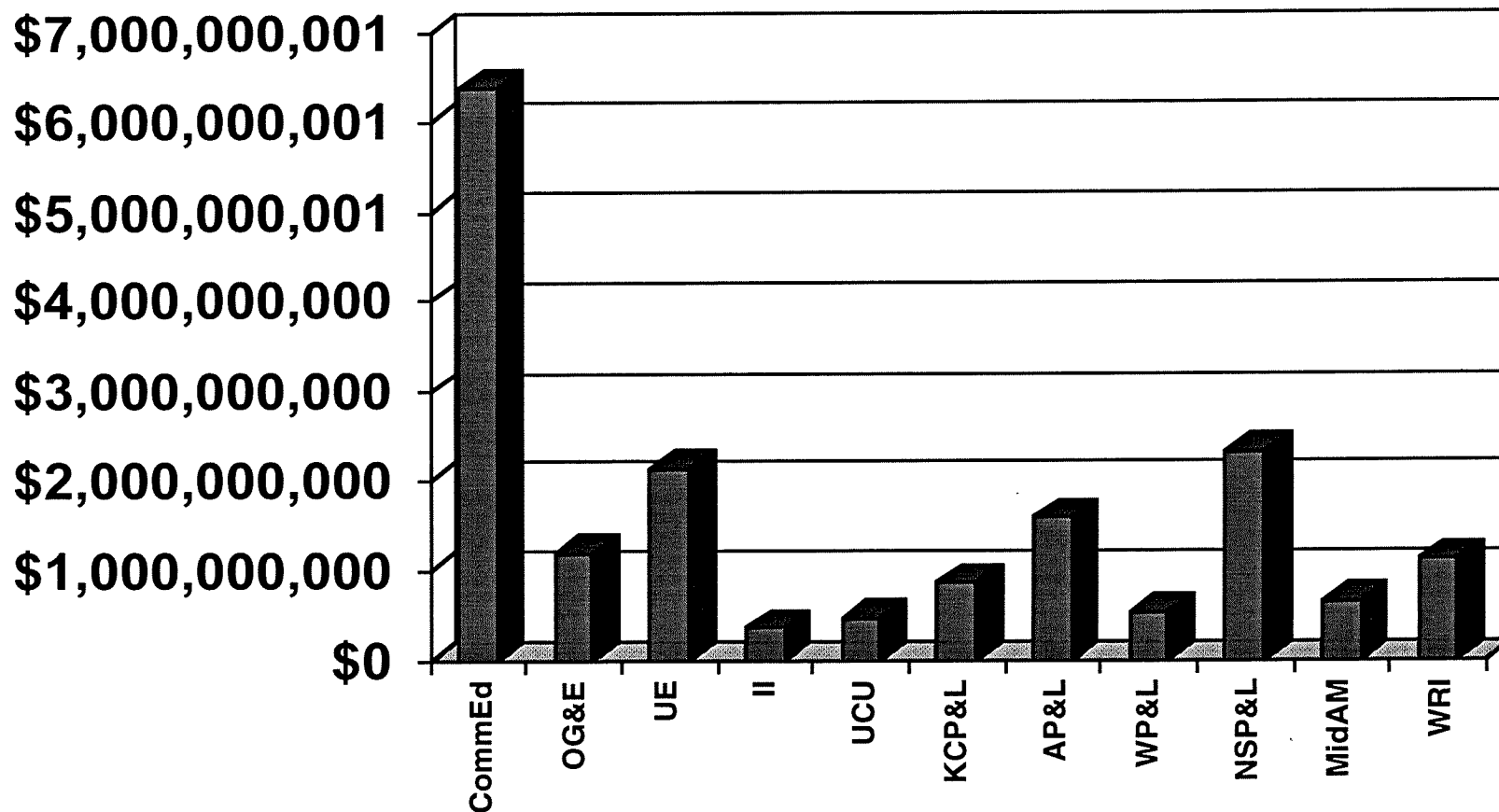
- **Methodology for Comparison:**
  - **Obtained FERC Form No. 1 for 1994 for the major investor-owned utilities in the defined region**
  - **Did not audit data contained in FERC Form 1's**
  - **Utilized analysis of FERC Form 1 data to test previously documented studies citing Kansas as having the highest tax burden in the region related to property and income taxes on mature businesses**
  - **Since the "product" sold is electricity or megawatts, the analysis focused on the state tax burden on electric operating revenues and megawatts sold**

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# HOW DOES KANSAS TAX BURDEN COMPARE?

## RANKING ELECTRIC OPERATING REVENUES BY ENTITY



Source: FERC No.1 1994

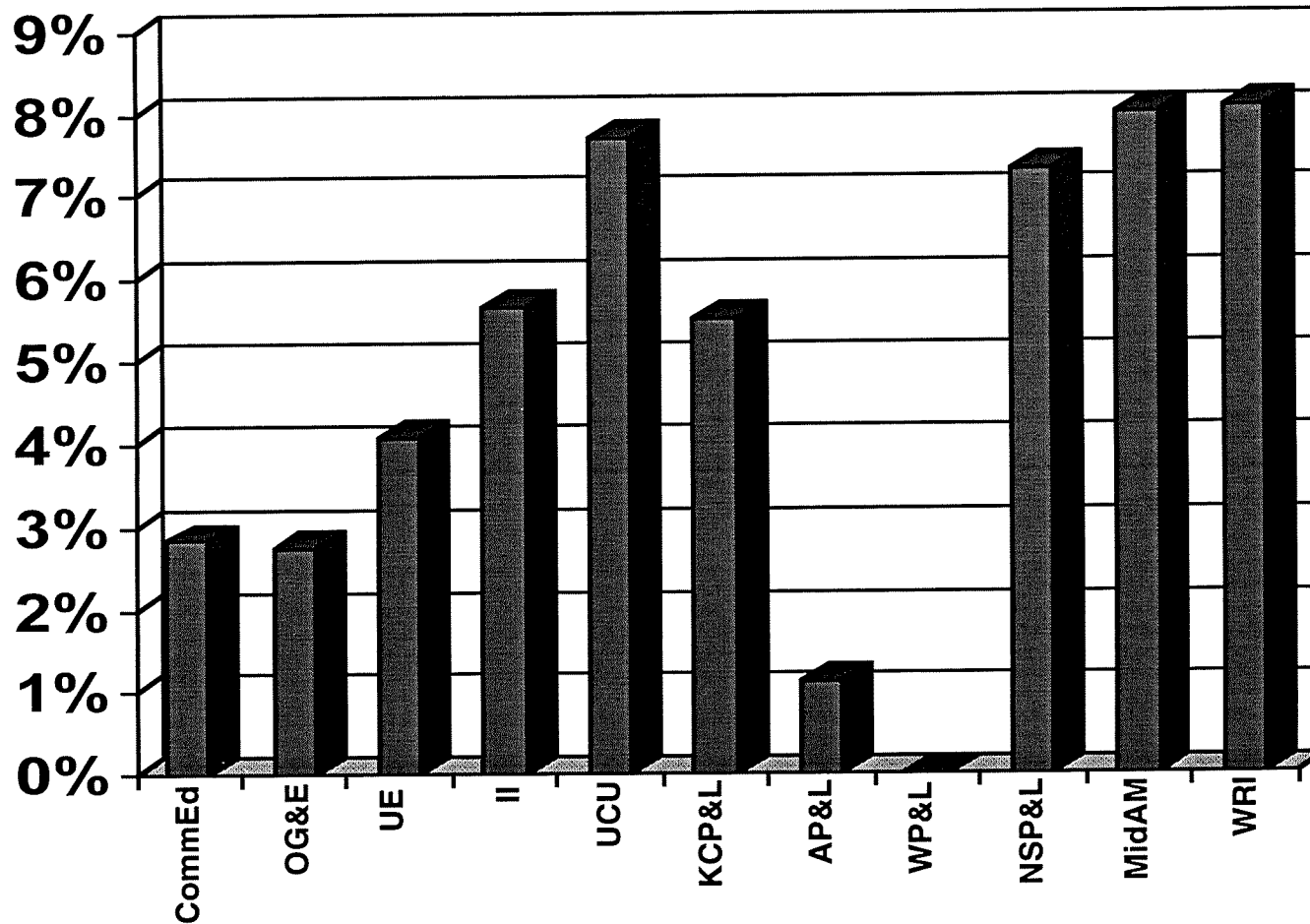
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# HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF PROPERTY TAX COSTS AS PERCENT OF ELECTRIC OPERATING REVENUES

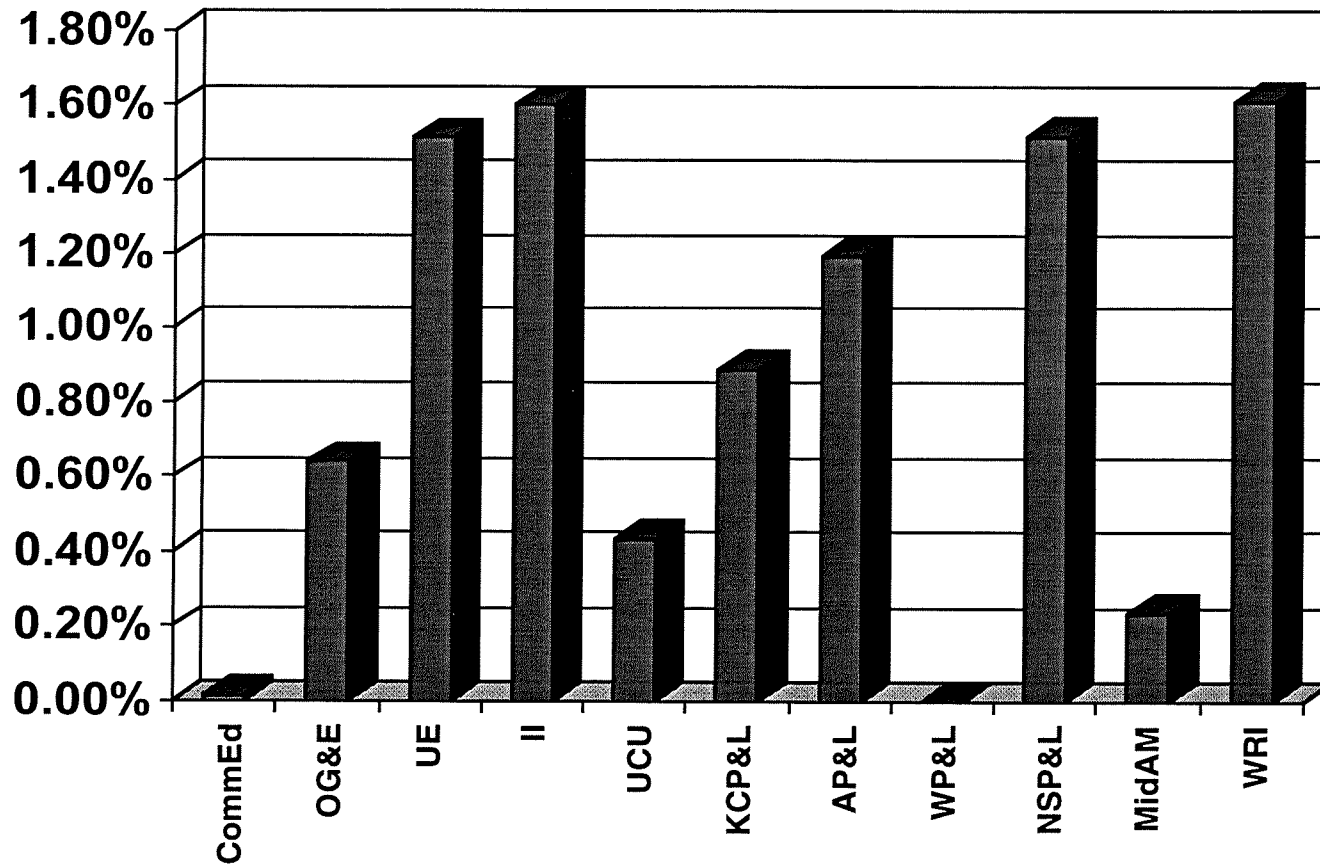


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Source: FERC No.1 1994



# HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF INCOME TAXES AS A PERCENT OF ELECTRIC OPERATING REVENUES



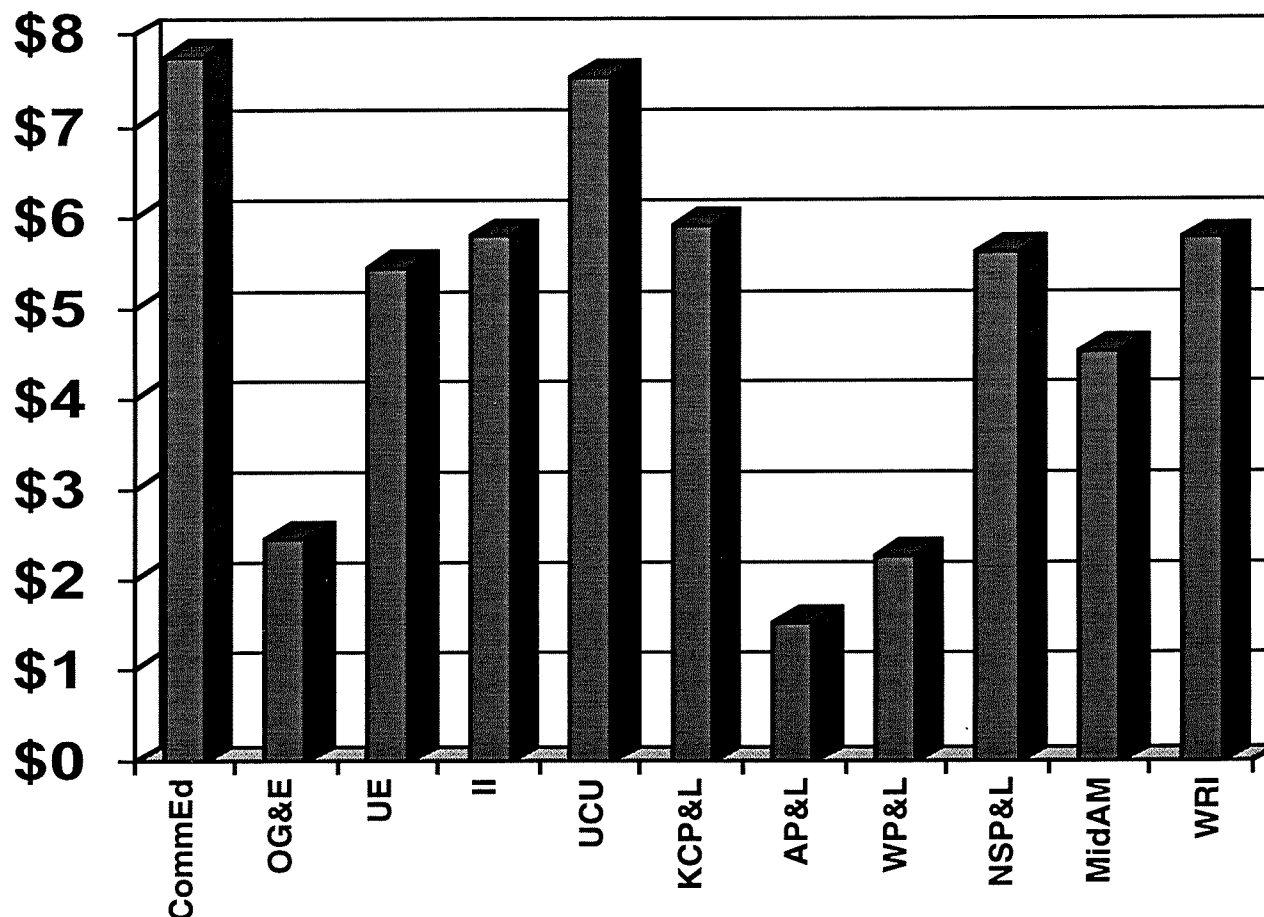
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Source: FERC No.1 1994



# HOW DOES KANSAS TAX BURDEN COMPARE?

COMPARISON OF TOTAL STATE & LOCAL TAX BURDEN OVER MEGAWATT HOURS SOLD

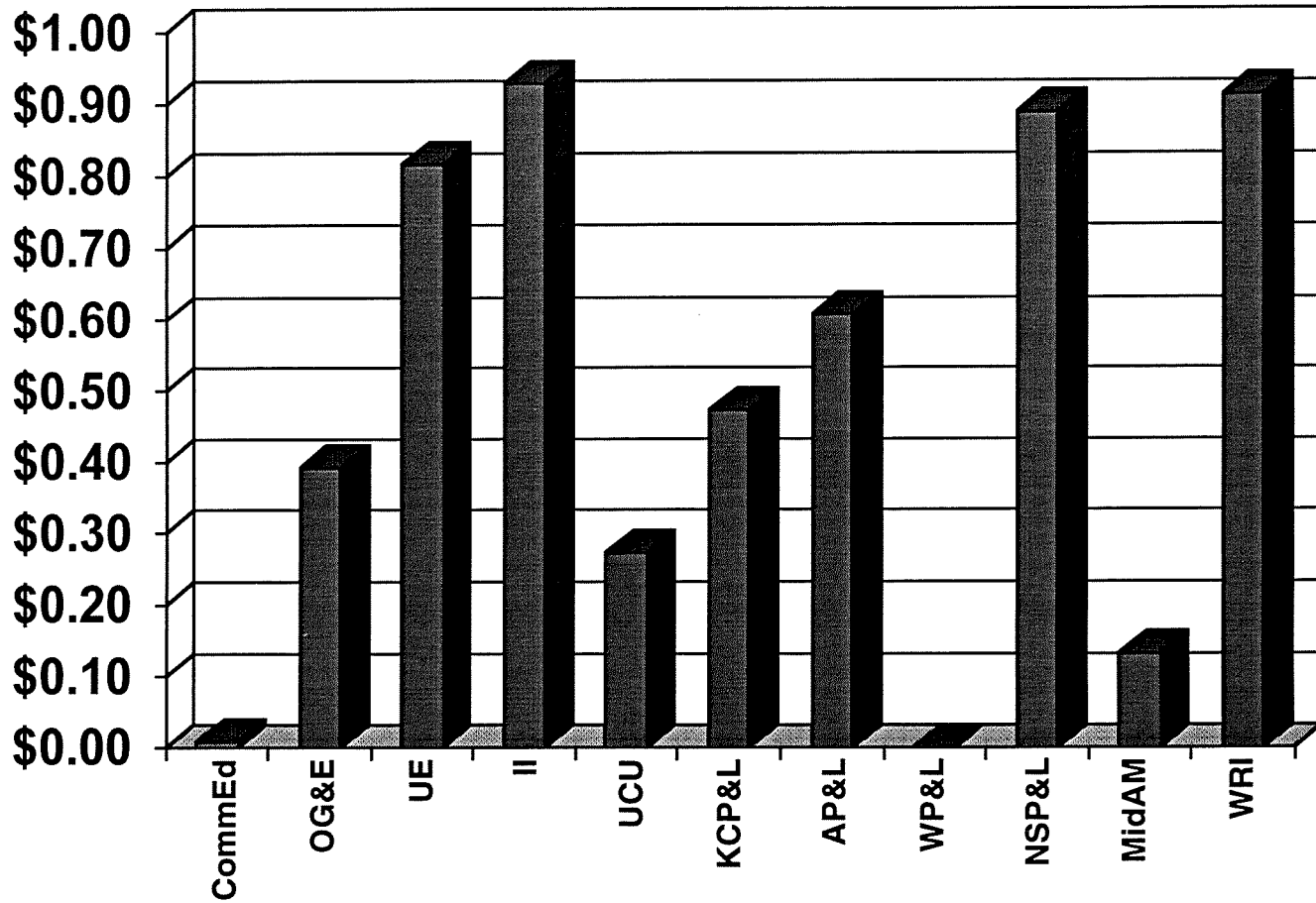


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Source: FERC No.1 1994

# HOW DOES KANSAS TAX BURDEN COMPARE?

STATE INCOME TAX COSTS PER MEGAWATT HOURS SOLD



72-1  
*Source: FERC No.1 1994*

# HOW DOES KANSAS TAX BURDEN COMPARE?

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## UTILITIES AS COMPARED TO OTHER INDUSTRIES

- **Kansas taxes utilities differently than it taxes other industries.**
- **Differences exist in property taxation - utilities are taxed significantly higher.**
- **Differences exist in sales/use taxation - businesses and other industries can lower their sales/use tax costs through qualification for credits and incentives which are not available to utilities**
- **Differences exist in income taxation - businesses and other industries can reduce their income tax liability through qualification for incentives and credits.**

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# HOW DOES KANSAS TAX BURDEN COMPARE?

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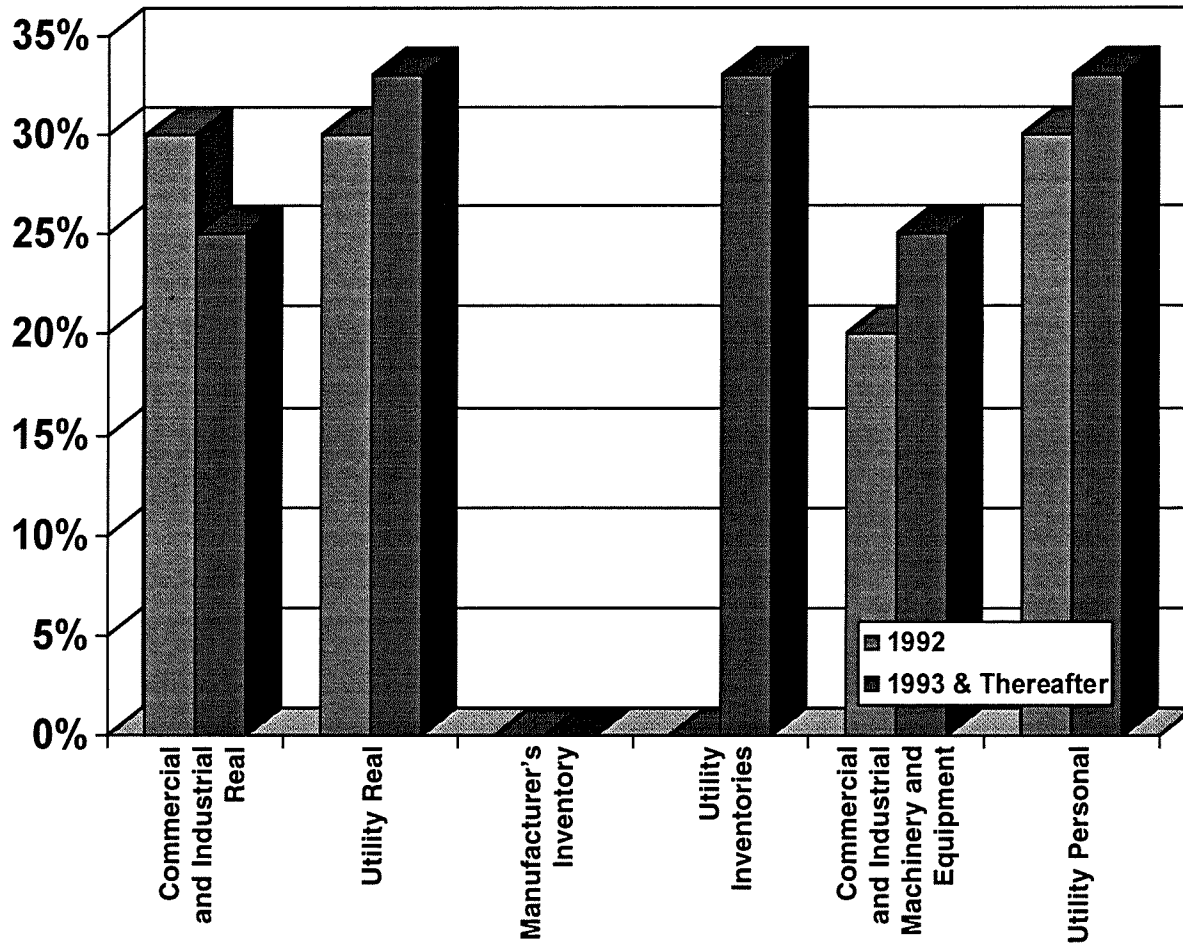
## UTILITIES AS COMPARED TO OTHER INDUSTRIES

- **Kansas made changes in the way utility property is taxed in 1992 (See chart on following slide)**
- **Utility property is taxed at rates much higher than commercial and industrial property**
- **The Kansas property tax rates for commercial property are the highest in the region; with Kansas utility property taxed higher than commercial, Kansas utilities bear the highest property tax burden in the region.**

1-26

# HOW DOES KANSAS TAX BURDEN COMPARE?

## COMPARISON UTILITY PROPERTY TO COMMERCIAL AND INDUSTRIAL PROPERTY



SOURCE: 1995 GOVERNOR'S TAX EQUITY TASK FORCE REPORT

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68-1

## WHAT DOES THIS MEAN TO KANSAS BASED UTILITIES ENTERING COMPETITION?

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- **Our analysis indicates that Kansas produced electricity may bear a greater state tax burden than electricity produced outside the state, within the region of comparison. (Region defined as the following states: Oklahoma, Nebraska, Missouri, Iowa, Minnesota, Illinois, Louisiana, Wisconsin and Arkansas)**
- **Non-Kansas produced electricity in a retail wheeling environment may be available to Kansas customers at costs which reflect lower state taxes.**
- **Kansas produced electricity in a retail wheeling environment, when sold into other states may bear a greater state tax cost, thereby, placing the Kansas producer at a possible competitive disadvantage.**

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# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## *Proposals by Various Parties*

- **Property tax reform**
- **Broad-based energy taxes**
- **Electricity consumption taxes**
- **Repeal of sales tax exemption**
- **Use taxes on imported electricity**
- **Repeal of gross receipts taxes**

1-29

# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Property Tax Reform***

- **Remove distinction between the treatment of public utility property versus non-public utility property**
- **Targeted state aid for local jurisdictions severely impacted by declining local tax base**

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# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Broad-Based Energy Taxes***

- **Based on percentage of selling price or fixed amount per British thermal unit (Btu)**
- **May create fewer distortions among competing sources of energy**
- **May produce adverse reaction from public, particularly regarding motor fuels, heating oil and natural gas**
- **May adversely affect business competitiveness**

1-31

# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Electricity Consumption Taxes***

- **Equal tax on all electricity consumed in the taxing jurisdiction**
- **Tax could be a percentage of selling price or fixed amount per KWH**
- **Apply regardless of who generates the power**
- **Would discourage electricity consumption in favor of untaxed energy forms**

1-32

# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Repeal of Sales Tax Exemptions***

- **Broadens the tax base**
- **Essentially produces the same economic result as a consumption tax equal to a percentage of price**
- **May produce adverse reaction from public and discourage new business investment**

1-33

# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Use Taxes on Imported Electricity***

- **Eliminates incentive to buy from out-of-state providers not subject to gross receipts tax**
- **Constitutional concerns**
- ***General Motors Corporation v. Tracy* case (natural gas)**

1-34

# STATE AND LOCAL TAX POLICY CONSIDERATIONS

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## ***Proposals by Various Parties: Repeal of Gross Receipts Tax***

- **Eliminate disparities in existing gross receipts tax regimes**
- **Replacement by net income tax would raise less revenue**
- **Replacement by income tax may cause charge to company book earnings**

1-35

# CONCLUSION

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- **Industry competition will have a dramatic impact on tax revenues.**
- **Existing tax regimes will affect the competitive balance in the industry.**
- **Tax issues will be an important part of restructuring discussions.**
- **Examination of these issues in greater detail is required, particularly at state and local levels.**

1-36