

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE RESOLUTION 496

Introduced by Cornett, 45.

PURPOSE: The purpose of this resolution is to study issues relating to state and local taxation of wind energy electrical generation facilities. The issues addressed by this study shall include, but not be limited to:

(1) Limitations placed on state and local taxation by the commerce clause of the United States Constitution, including the United States Supreme Court's "dormant" commerce clause jurisprudence, with respect to all types of taxes that could conceivably be imposed on such facilities or in connection with such facilities, including property taxes and excise taxes, such as income taxes, sales and use taxes, production taxes, and other excise taxes;

(2) The classification of wind energy property as real property, personal property, and fixtures, including trade fixtures, and the Nebraska Supreme Court's jurisprudence with respect to the classification of property as real property, personal property, and fixtures, including trade fixtures;

(3) Whether taxation of wind energy property should be centrally assessed property, locally assessed property, or both as may be necessary or appropriate; and

(4) The distribution of state and local tax revenue that

may be derived from the imposition of any types of taxes that could conceivably be imposed lawfully on such facilities or in connection with such facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.