

April 6, 1992

LB 719A

SPEAKER BAACK: We will now proceed with LB 719A.

CLERK: Mr. President, the next amendment I have to the bill is by Senators Nelson and Wickersham. The amendment is found on page 1940 of the Journal.

SPEAKER BAACK: Senator Nelson.

SENATOR NELSON: Mr. Speaker, this is not a major amendment. I guess it's one of those that I think would be fair for the body to do. In essence, when estimated income tax is paid, there are two provisions that you must either pay 90 percent of tax due or the tax that was due in the previous year. Say for example, you may need to pay \$1,000 this year but only paid 300 last year. You are either at the 90 percent level or the...100 percent of what was paid in past years. The Nebraska Department of Revenue has taken the position that the taxpayer subject to the depreciation surcharge must also pay in the 90 percent of the surcharge in addition to the prior year's amount to avoid penalties. The basis reasoning on the fact that the depreciation surcharge is an excise tax and not an income tax and as a result, and I readily admit that they sent out notices September 15 estimated tax due dates that you must increase your estimated tax. This will not affect a lot of farmers because of the fact that of the increase, the surcharge, but because the surcharge is being called an excise tax instead of an income tax, the small businesses particularly the farmers probably wouldn't have that much and there is a \$300 tax level too on tax that you do owe, but some of the small businesses are being hit by this penalty. It's not a lot. What my amendment would say, and Senator Wickersham's amendment, is that, and I have run this past the Department of Revenue. We have gone over this and this is the only way to correct it and on page 3, Section 4, it says for purposes...could I have a hammer, please.

SPEAKER BAACK: (Gavel.)

SENATOR NELSON: I'm sure they'll all vote green on this, but they might not understand, for the purposes of administering the surcharge imposed pursuant to this section, statutory provisions relating to the income tax shall apply including provisions relating to interest penalties and estimated payments. Our addition is, except that the department shall not assess any penalty for underpayment of estimated income tax on an individual taxpayer estates or trusts, and there are very few