

November 9, 1992 LB 1

terms of income tax and sales tax, and that is something we cannot tolerate. LB 1, as brought to us by Senator Warner and the Governor, is a way for us to solve a short-term problem, and solve it with the least amount of disruption possible out there. To adopt Senator Coordsen's amendment would strip \$50 million from a \$94 million bill. It will strip \$50 million from a \$94 million bill. It puts you back to square one. It is not half a bill. It is little or nothing in terms of the overall problems that we will have to face. I would urge you, again, to reject Senator Coordsen's amendment as it relates to the surcharge. Thank you.

PRESIDENT MOUL: Thank you, Senator Hall. Senator Warner.

SENATOR WARNER: Madam President, members of the Legislature, I'd just very briefly reiterate what Senator Hall has said because he explained it very well, very factually. This simply is not an ad valorem tax. It is not based on market value or actual value. What it is is an excise tax on the privilege of reducing income tax by depreciation. As pointed out, a variety of ways that this kind of an approach exists between the states when we particularly have here for a one year period of time it is totally consistent with that, and particularly since this is not tied, this legislation is not tied to any other exemptions or personal property, it is not related at all. It is strictly a revenue measure, income tax form, which it affects, an excise tax, and clearly there is no constitutional problem. But, again, I would urge because of the volume of reduction in revenue that it would create, I would urge the body to reject the amendment.

PRESIDENT MOUL: Thank you, Senator Warner. Senator Elmer.

SENATOR ELMER: Thank you, Madam President. Just going to be very briefly and address this discussion as to whether the depreciation tax is in actuality an excise tax or whether it is based on value of property. As we all know, the depreciation that a person takes is based on the value of that particular property over a period of time. I had a bill several years ago in which I fund...we would fund the noxious weed program with a flat 5 cents per acre charge on every acre of farmable land in the state, and it was argued that that was a tax that the state could not levy. So I got an Attorney General's opinion and an excise tax, in a pure definition of the term, is a certain amount of tax per unit of personal or tangible or salable