

November 10, 1992 LB 1

SENATOR HEFNER: Okay. Okay, thank you.

SENATOR HALL: You bet.

PRESIDENT MOUL: Thank you, Senator Hefner. Senator Lamb.

SENATOR LAMB: Thank you, Madam Chair, and members. I had a question of bill drafter, I guess, but this is probably going to be resolved. There's a Section 11 in the Baack amendment and there's a Section 11 in LB 1 and they're not the same. It looks to me like we would have two sections 11 if we adopted the Baack amendment in its present form. But, really, what I wanted to ask Senator Hall is maybe similar to what Senator Hefner. We had a problem, you will remember, last time when we talked about fertilizer tax on really what constitutes a sale. Now is this well established that if you contract for fertilizer, sign a contract but do not pay anything down, in your opinion, does that constitute a sale?

SENATOR HALL: Could you run that by me again, Senator Lamb, I was...

SENATOR LAMB: If you sign a contract for a certain amount of fertilizer to be delivered or to be picked up at any time, any particular time, and you don't pay any money down, does that constitute a bona fide sale which would qualify for the reduced tax?

SENATOR HALL: Senator Lamb, I don't know. I would guess that that would be a real question that the...you know, whether it would be at the time of sale, at the time of contract, whether or not the tax would be levied at one or the other of those points. We're asking the Department of Revenue right now for their interpretation of that. As you know, the fertilizer tax went into place April 1. We're coming full circle now to about...with this amendment as it's been incorporated in the Baack amendment to April 30, May 1 date, so it's going full circle in terms of the full calendar year, plus 13 months, to be exact. I think it's fair to, you know, to understand that with the refund mechanism built in nobody is going to be cheated, everybody is going to be paying the same amount. And the only question is the one that you just asked me, could somebody contract, for example, for either, you know, the '94 growing year, in '93 in case they determine before that window of