

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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FLOOR DEBATE

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LB 759

I do raise the call.

CLERK: Mr. President, the next amendment is by Senator Brashear. Senator, I have a note you'd like to withdraw AM1819 and offer as a substitute AM1939.

SENATOR CUDABACK: Without any objections, so ordered.

CLERK: AM1939, Senator. (Legislative Journal pages 1860-1861.)

SENATOR CUDABACK: Senator Brashear, to open on AM1939.

SENATOR BRASHEAR: Thank you, Mr. President, members of the body. This amendment addresses technical and administrative issues. First, we had inserted a provision in the bill that would require the Department of Revenue to issue rules and regulations with respect to the new tax provisions in the act. This is an important concept but there is a difficulty that arises from it. There is case law that indicates that when the Legislature mandates rules and regulations for a particular law, that law does not become fully effective until such rules and regulations are final. In other words, the Department of Revenue indicated that because of that case law, they would not start collecting revenues until rules and regulations were final. In addition, because our administrative process allows for an appeal of those rules and regulations through a court, the department does not have control over when those regulations would actually become final. In short, any party that wanted to litigate the regulations could delay the collection of revenue under the act until that litigation was final if we adopt the language that makes the regulations mandatory. Because of that, the department indicated that it would be...it would need to revise the fiscal estimates of the bill. This amendment would alter the language so as to avoid the difficulty. The language will require the department to hold a hearing on rules and regulations so that issues related to the enforcement of this law can be discussed in a public meeting or a public setting but will only state intent with regard to actual issuance of rules and regulations. The department has indicated its very strong intention to adopt rules and regulations with respect to some of the very technical issues related to the bill if it is adopted.