

# FINAL BILL REPORT

## SSB 5905

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Synopsis as Enacted

**Brief Description:** Concerning the negotiation, enforcement, and resolution of disputes regarding tribal/state gaming compacts under the federal Indian gaming regulatory act of 1988.

**Sponsors:** Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Swecker and Winsley).

**Senate Committee on Labor, Commerce & Financial Institutions**  
**House Committee on Commerce & Labor**

**Background:** In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA). The IGRA provides a comprehensive scheme governing gambling on Indian lands. Under IGRA, tribes may not conduct class III gambling on Indian land unless the state and the tribe have a compact governing the specific form of gambling. Class III gaming typically includes banking card games, slot machines, pari-mutuel racing, lotteries, and electronic games of chance such as video poker. A tribe that wants to conduct class III gaming must request that the state negotiate a compact. The state regulates class III gaming under the terms of the tribal-state gaming compact agreement.

IGRA requires that the state negotiate with the tribes in "good faith." If the state refuses to negotiate or the tribe alleges the state is not negotiating in "good faith," IGRA authorizes the tribe to sue the state in federal court. In 1996, the United States Supreme Court ruled that this provision authorizing tribes to sue a state for failure to negotiate in good faith violates the state's sovereign immunity under the 11th Amendment of the U.S. Constitution. If a state chooses to assert its sovereign immunity defense, this portion of IGRA is rendered inoperable.

In Washington, 24 tribal-state compacts have been approved. Fourteen compacting tribes operate casino facilities. Three tribes operate casino facilities without tribal-state compact agreements.

**Summary:** Until July 30, 2007, the state consents to the jurisdiction of the federal courts in actions brought by the tribes to settle disputes arising under the Indian Gaming Regulatory Act or tribal-state compacts. This limited waiver of sovereign immunity is conditioned upon the tribe having a tribal-state gaming compact, and upon a similar waiver of sovereign immunity by the tribe bringing the action. In addition, this limited waiver of sovereign immunity applies only to those actions properly filed on or before July 29, 2007.

**Votes on Final Passage:**

Senate	29	20
House	96	0 (House amended)

Senate 28 19 (Senate concurred)

**Effective:** July 22, 2001