

# SENATE BILL REPORT

## SB 5305

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As of February 8, 2011

**Title:** An act relating to subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe.

**Brief Description:** Removing essential government services as a condition to exempt from taxation property belonging to any federally recognized Indian tribe located in the state.

**Sponsors:** Senators Chase and Swecker.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/27/11.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Diane Smith (786-7410)

**Background:** All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law. Property owned by the United States, the state of Washington, counties, cities, and other local governments is exempt from property tax under the state Constitution.

The Legislature may exempt other property by statute and has enacted a number of exemptions for publicly-owned property, property owned by various nonprofit organizations, privately-owned property, and personal property.

Federal law prohibits the taxation of Indian trust land by state and local governments. Indian trust land is land that the federal government holds in trust for recognized Indian tribes or tribal members. Tribes may own non-trust land, called fee land, and this land is subject to the usual state and local property taxes.

In 2004 a property tax exemption was provided for property belonging exclusively to a federally-recognized Indian tribe used exclusively for essential government services. Essential government services are defined as services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property.

The leasehold excise tax is collected by public entities that lease property to private parties. The tax rate is 12.84 percent of the amount paid in rent for the public property. Cities and counties may impose a local tax which is credited against the state tax. Counties may impose a tax of up to 6 percent, and cities may impose a tax of up to 4 percent. The city tax is credited against any county tax. The state tax is deposited into the state General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Fire protection districts and regional fire protection service authorities are special purpose districts. They are created by a vote of the voters of the district or authority for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property. Indian tribes are one of the fire protection jurisdictions that are eligible to participate in a regional fire protection service authority.

Indian tribes are also public agencies for purposes of the Interlocal Cooperation Act. This act allows any two or more agencies to enter into agreements with one another for joint or cooperative action.

**Summary of Bill:** Property owned by federally-recognized Indian tribes is exempt from property tax. The leasehold excise tax applies to the rent paid by private parties who lease property owned by federally-recognized Indian tribes.

Fire protection districts or regional fire protection authorities having exempt tribal property located within their boundaries may contract with the tribe for compensation for providing fire protection services.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2011.  
[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.