

# SENATE BILL REPORT

## HB 1063

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As of March 28, 2017

**Title:** An act relating to allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Brief Description:** Allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Sponsors:** Representatives Morris, Lytton, Fitzgibbon, Appleton and Sawyer.

**Brief History:** Passed House: 3/06/17, 53-45.

**Committee Activity:** Transportation: 3/28/17.

### Brief Summary of Bill

- Allows the Department of Licensing to enter into fuel tax agreements with certain federally recognized tribes with lands held in trust.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** Under federal law, absent explicit congressional authorization, states may not impose taxes on a tribe or its members for sales made on tribal lands. In 2007, state legislation was enacted that authorized the Governor to enter into a motor vehicle fuel tax agreement with any federally recognized Indian tribe with a reservation in Washington. The Governor has delegated this authority to the Department of Licensing (DOL). There are currently 29 federally recognized Indian tribes in Washington, 24 of which currently have a fuel tax agreement with DOL.

There are two types of fuel tax agreements:

1. Seventy-five Percent Refund/25 Percent (75/25) State Tax Agreement. Under a 75/25 State Tax Agreement, tribes agree to purchase the fuel sold at tribally owned retail

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stations from state-licensed fuel distributors with the state fuel tax included. Tribes report their purchases to the DOL and receive 75 percent of the state fuel tax revenue collected as a refund, and the state retains 25 percent as state tax.

2. Per Capita Agreement. A Per Capita Agreement is a computational formula resulting in an estimate of the amount of fuel tax most likely paid by tribal members purchasing fuel on the reservation. This formula provides an annual amount of fuel tax to be refunded to each tribe. All per capita agreements were entered into prior to the 2007 legislation.

**Summary of Bill:** The Governor may enter into fuel tax agreements with federally recognized Indian tribes with trust lands in certain counties. The federally recognized tribe must have trust lands located in a county that is west of the Cascade mountain range that borders the Puget Sound and has a population of at least 118,000 but less than 250,000 people.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2017.

**Staff Summary of Public Testimony:** PRO: The Samish Tribe is currently the only tribe that would meet the narrowly crafted language being added in this bill. The tribe has had to work very hard to overcome a clerical error that left the tribe off the list of federally recognized tribes from the Treaty of Port Elliot. The original legislation authorizing these fuel tax agreements was drafted to prevent out of state tribes from trying to enter into agreements with the state but inadvertently used criteria that makes it impossible for the Samish Tribe to meet the eligibility requirement as we do not have a reservation.

This bill will help the tribe by allowing us to one day enter into a fuel tax agreement with the state and use those funds to improve our roads. We are an active member in our community and we are just asking to be treated like other federally recognized tribes in this state.

**Persons Testifying:** PRO: Gary Hatch, Samish Indian Nation; Rebecca Johnson, Samish Indian Nation.

**Persons Signed In To Testify But Not Testifying:** No one.