# SENATE BILL REPORT
# SB 5689

As of February 8, 2023

**Title:** An act relating to providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

**Brief Description:** Providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe.

**Sponsors:** Senators Stanford, Braun, Keiser, Rolfes and Saldaña.

**Brief History:**
**Committee Activity:** Business, Financial Services, Gaming & Trade: 2/09/23.

**Brief Summary of Bill**

- Provides a sales and use tax exemption for labor and materials used in the construction of an Internet and telecommunications infrastructure project.

## SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

**Staff:** Jeffrey Mitchell (786-7438)

**Background:** Retail Sales and Use Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital products, or services when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary from 0.5 percent to over 3 percent, depending on the location.

Construction services are generally considered a retail service and therefore subject to sales

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tax. Contractors must usually collect and remit retail sales tax on their total charges unless a specific exemption applies. This taxable amount includes charges for permits and other fees, labor, profit, materials and charges for subcontractors. Contractors performing retail services must collect sales tax based on the tax rate of the jurisdiction in which they perform their services.

Cable Landing Station. A cable landing station is a facility where one or more subsea telecommunication cables make landfall and connect to land-based power and networking infrastructure.

Tax Preference Performance Statement. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

**Summary of Bill:** A sales and use tax exemption is provided for building materials, telecommunications equipment, or any other personal property used or incorporated into a qualified infrastructure project as well as labor and services used in the construction of a qualified infrastructure project or the installation of any equipment or other personal property incorporated into a qualified infrastructure project. "Qualified infrastructure project" means the construction of buildings and utilities related to the deployment of modern global Internet and telecommunications infrastructure that occurs in part in a distressed county located on the coast of Washington. The infrastructure may include, but is not limited to, cable landing stations, data centers, communications hubs, buried utility connections and extension, and any related equipment and buildings that will add broadband capacity and infrastructure to the area.

A taxpayer must submit an application to the Department of Revenue to obtain an exemption certificate. Only purchases on or after the date of issuance of the exemption certificate qualify for the sales and use tax exemption. An exemption certificate expires on the date the project is certified as complete by the qualified infrastructure project owner or December 31, 2028, whichever is first. "Qualified infrastructure project owner" means a federally recognized tribe and an indigenous-owned business entity that is deploying an Internet and telecommunications infrastructure in at least one distressed county on the coast of Washington.

The sales and use tax exemption provisions expire on December 31, 2029.

The bill is exempt from the requirements of including a tax preference performance statement and JLARC review.

**Appropriation:** None.

**Fiscal Note:** Requested on February 6, 2023.

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

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