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SFA**BILL ANALYSIS**

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Senate Bills 1501 through 1504 (as reported without amendment)
Sponsor: Senator Joanne G. Emmons
Committee: Finance

CONTENT

The bills would amend various tax laws to do the following:

- Allow the Department of Treasury to enter into agreements with Indian tribes regarding the applicability of certain taxes.
- Allow tribal members who were subject to a tribal agreement to claim income tax deductions for certain nonbusiness income.
- Exempt from the sales tax and the use tax certain vehicles and mobile homes sold to tribal members who were subject to an agreement.

Senate Bill 1501 would amend the revenue Act to permit the Treasury Department to enter into a tribal agreement with a Federally recognized Indian tribe specifying the applicability to a tax administered under the Act to that tribe, its members, and any person conducting business with them. Those parties would remain fully subject to the State's tax statutes except as otherwise specifically provided by an agreement, in effect for the period at issue. A tribal agreement would have to include a waiver of tribal sovereign immunity sufficient to make the agreement enforceable against both parties, and a provision ensuring that members of the tribe would be bound by the agreement. An agreement also would have to provide for the collection of the sales or use tax on tangible personal property, and the collection of taxes on tobacco products and motor fuel, to the extent that those items were not exempt under the agreement; and provide for the withholding and remittance of income tax from nonexempt employees.

In addition, a tribal agreement would have to provide for the reporting of gambling winnings as reported to the Federal government, as well as the disclosure of information between the Department and the tribe. An agreement would have to include provisions governing duration and termination that enabled either party to terminate the agreement for noncompliance, and to terminate it at will after a maximum period of two years. An agreement could include provision for the parties to share taxes collected, and could provide for dispute resolution. A tribal agreement could not authorize the approval of a Class III gaming compact negotiated under the Indian Gaming Regulatory Act.

Senate Bill 1502 would amend the Income Tax Act to allow a resident tribal member to deduct from the income tax, to the extent included in Federal adjusted gross income, all nonbusiness income (as defined in the bill) earned or received in a tax year, and while an agreement entered into between the taxpayer's tribe and the State was in effect. A "resident tribal member" would be an enrolled member of a Federally recognized tribe that had a tribal agreement with the State in effect, and whose principal place of residence was located within an agreement area as designated in the tribal agreement.

Senate Bills 1503 and 1504 would amend the General Sales Tax Act and the Use Tax Act, respectively, to exempt from the sales and use taxes the sale of a motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle, not for resale, to a resident tribal member if the

vehicle, watercraft, snowmobile, or all terrain vehicle were for personal use and principally garaged, berthed, or stored within the member's tribal agreement area. The bills also would exempt from the taxes the sale of a mobile home to a resident tribal member if the mobile home were to be used as that member's principal residence, and were located within the member's tribal agreement area.

MCL 205.30c (S.B. 1501)
MCL 206.30 (S.B. 1502)
Proposed MCL 205.54aa (S.B. 1503)
Proposed MCL 205.94x (S.B. 1504)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

There is little available information on which to base an estimate of the fiscal impact of these bills. Some of the provisions in these bills would definitely reduce sales, use, and income tax revenue by some relatively small amount, but there are also provisions that would help the State collect additional revenues from these taxes by some unknown amount. Based on the limited information that is available, it is estimated that in any given year, the changes proposed in these bills probably would be nearly revenue neutral.

Date Completed: 12-2-02

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.