

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Amendment to: SB 2095

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2095 creates new law providing a limited exemption from state or local licensing, registration, and tax obligations to out-of-state businesses that the state, a political subdivision of the state, or an in-state business asks to perform disaster or emergency remediation work in the state.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill provides that out-of-state businesses and their out-of-state employees are not subject to any state or local licensing, registration, and certain tax obligations if they are in North Dakota for the sole purpose of repairing or replacing critical infrastructure during a disaster response period associated with a state-declared disaster or emergency. Unless specifically exempted during the disaster response period, the exemption does not apply to transaction taxes and fees, such as fuel taxes, hotel taxes, car rental taxes, or sales or use taxes on materials or services consumed or used in the state.

The enactment of SB 2095 would have potential negative and positive fiscal effects at both state and local levels. The exemption from state and local taxes and fees is broad, covering state income taxes, state and local sales and use taxes, state unemployment taxes, state workers' compensation premiums, and other types of state and local taxes and fees. On the negative side, the exemption would result in the loss of revenues from taxes and fees that would have otherwise been due. On the positive side, there would be additional revenues from the non-exempt transaction taxes and fees that must be paid.

It is not possible to estimate the amount of the potential decrease or increase in revenues given the nature of the bill's purpose and the many unknown variables that would factor into a fiscal impact calculation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

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Telephone: 328-3402

Date Prepared: 01/09/2015

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2015 SENATE FINANCE AND TAXATION

SB 2095

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2095
1/14/2015
Job Number 21958

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Relating to facilitating entry of an out-of-state business to perform disaster or emergency remediation work in this state and to provide a limited exemption for that purpose from state and local taxes and fees, licensing or registration requirements, and other requirements during the time in this state employed in disaster or emergency remediation work; and to declare an emergency,

Minutes:

Attachment #1, #2, #3, #4

Chairman Cook opened the hearing on SB2095

Senator Cook -- Introduces and testifies on SB2095. This piece of legislation has caused a lot of interest and Sen Cook explains what he wants to achieve with this legislation. I am thinking of the companies that come from out-of-state; that might come to North Dakota to assist with utility issues in case of damages from storms. That's the type of people that I have in mind with this. That's the intent of this legislation: to streamline this process. We talk about the communications network, the electric generation, transmission or distribution system. Those are the two main ones that I am looking at. I am not sure why oil and gas storage transmission or distribution systems for water storage, etc. are in here, but we need to have that dialogue in discussion as to whether or not they should be in there. We have a definition for "declared state emergency", to define a situation in which this would apply. Then we get into the real meat of the bill which is in 37-17.5-02 sections 1 and 2 refers about the taxes or the fees that these folks would not be subjected too. It makes a statement that they may not be considered to have established a level of presence that would require that business to register, to do business or file or remit state or local taxes or that would require that business or it's out-of-state employees to be subject to any state or local licensing registration requirements, state or local taxes or fees including unemployment insurance, workers compensation, local occupational license fees, sales tax, sales and use tax for equipment used or brought into the state, temporary for use. The folks that I am trying to reach out to here and capture are these folks that come to ND simply to help us get up and running again. They are not coming here seeking wind-fall profits. When everybody can turn their lights on, everybody's telephone rings again, they can go back home. We need to have this dialogue that, if we have this type of disaster, there is a particular company in North Dakota, maybe it's a rural telephone cooperative,

that's going to reach out and request help. Maybe that is how we should capture and identify who these people are. Right now in times of disaster, we have through the Secretary of State, the Attorney General's office, we have set up a one stop shop for all of these places to come in and do all they have to do. These types of folks would circumvent that and come straight in. My intent is to get them into the state as quick as possible, let them do the work that we need them to do, and then get them home and not subject them to any of our taxes, registration fees or anything like that.

Senator Laffen --Is the intent that these companies don't need to be licensed and registered in ND? Does it still protect that they are in fact still electricians doing the work? Is that protected?

Senator Cook -- It would need to be protected. They would be employed and licensed in another state. We would offer reciprocity to that license that they have in that other state.

Senator Triplett -- Do we have a problem in ND? In 1997 in ND our Governor Schafer and Attorney General Heitkamp waived some rules to get people in and up and running. Are you suggesting that they did something wrong in letting that happen, or don't we already have the authority in the executive agencies to respond in a moment's notice?

Senator Cook -- No, and your question as to what degree do we have a problem is a fair question. Maybe we don't have a problem in ND. If these people were subject to our income tax laws, we need to do some work on that. I did not do any work to find out if it is the case coming up to this bill draft.

Senator Triplett -- By the definition of declared state disaster or emergence, I am just wondering if you're aware how very often we have at least limited declarations of emergency in this state for drought or excessive rains or whatever. Local governments declare emergencies all the time and they pass it up to the governor who then passes it them up to the president's office. It is just a mechanism for accessing federal funding for getting repairs or getting FEMA into a small area or something. It doesn't necessarily mean that we can't handle it within house, in state workers. I think it is an awfully broad definition that you've set out here to trigger this bill.

Senator Cook -- We'll work on that.

Levi Andrist, on behalf of AT&T. (Attachment #1)Cheryl Riley is unable to be here today.

We just want to support this legislation.

Chairman Cook -- Levi, AT&T has brought out-of-state workers here in the past, have they not?

Levi Andrist -- Certainly.

Chairman Cook --Can you do a look back and see to what degree they did have to register and to what degree they were subjected to North Dakota tax laws?

Levi Andrist -- I can certainly do that.

Chairman Cook --That would help.

Testimony opposed to SB2095.

Clara Jenkins provided testimony on behalf of Secretary of State Al Jaeger who is at his budget hearing. **(Attachment #2)**

Kevin Nelson appears in opposition to SB2095 and requests a do not pass recommendation. **(Attachment #3)**

Chairman Cook -- Kevin, is it a risk for somebody in rural ND to be without electricity?

Kevin Nelson --Yes, it is.

Chairman Cook -- Is it wise to see what we can do to get that electricity up and running as fast as we can?

Kevin Nelson -- Yes it is.

Chairman Cook --What do you see how this bill affects surveyors and engineers?

Kevin Nelson -- When the critical infrastructure that is referred to refers to roads and bridges.

Chairman Cook -- Is that is the only place?

Kevin Nelson -- No there are other places as well especially with the water and sewer distribution collection system.

Chairman Cook -- Water and sewer?

Kevin Nelson -- The oil transmission systems.

Chairman Cook -- If you're rebuilding an infrastructure, how does this affect a surveyor, putting it back the way it was?

Kevin Nelson -- Occasionally there are temporary facilities that are put in place so it is to make sure that those facilities are located properly would affect surveying.

Chairman Cook -Do you understand that the definition of critical infrastructure in this bill is only as it used in this chapter.

Kevin Nelson --Yes sir.

Senator Laffen --This actually goes back to my first question. Kevin's testimony is kind in conflict to Senator Cook. You're answer to my question in that if you come in as an electrician to fix electrical power, are we just saying that company doesn't have to be

licensed or do you still have to be a licensed electrician to do that work? I am confused. I don't see in the bill where it actually says you still need to be a licensed electrician or a licensed civil engineer or whatever. It's just your company that doesn't have to go through the paperwork to come here and work. I am confused on that part of what the bill is doing. Kevin is saying this would restrict that, but I heard Senator Cook say that it wouldn't. Am I clear or not very clear? There are two kinds of licenses. One is a professional license and two, a company has to be licensed in the state to do the work. Which one of the licenses is this saying you don't need?

Chairman Cook --We will find out.

Kevin Nelson -- As we read through this we got the interpretation that it would also be individuals. If that was our misunderstanding we duly note that. But the Board of Registration does also license companies that come in to make sure that those companies have the proper credentials also.

Chairman Cook -- This bill, granted needs to have some clarification and thank you for raising the question and we need to clarify it.

Senator Bekkedahl -- As an aside, I think of the electrical events we've had in our area, and somehow the REC's is bringing in 800 different people into that system from about 400 mile radius to fix that thing up within a one week period. I don't know how they made that happen, but would you say that there would be better protections in something like this if we required the entities to come in on a subcontract basis to an existing business or contracting firm in the state so we have a recourse to seek some remedy through this; someone is already licensed and domiciled here versus, coming in on a status that puts them on par with our existing business community?

Kevin Nelson -- I cannot speak to a particular electrician and their licensing. I can speak to you on the Board of Registration for Professional Engineers and Land Surveyors. In that instance, when those companies will bring in those individuals, more than just electricians, but they will also bring in design professionals. The Board looked at that as being an industry and under the board's laws and rules, industry is exempt from our licensure so they were able to bring those in. We believe that North Dakota Century Code 43-51 adequately covers those emergency events when design professionals in particular and it also covers other occupations as well as other professionals. That existing law currently covers those instances better than this proposed bill does.

Chairman Cook --Further testimony opposed to SB2095.

Greg Wilson, Deputy Director of the Department of Emergency Services. I serve as Homeland Security Director for the state of North Dakota. DES remains neutral on this bill. There are certainly a lot of pros and cons, but should this or a reasonable facsimile of this bill be passed into law, we would offer an amendment because it's going to reside in Chapter 37-17. Basically, the amendments that I handed out to you are really defining some of the key terms in the bill. While, certainly as you would define critical infrastructure in the bill, that is critical infrastructure. The feds and the state have adopted the definition of critical infrastructure and there are sixteen sectors that are determined to be critical

infrastructure and you don't cover all of those within the bill. So if we're going to cover critical infrastructure lets cover all of critical infrastructure, should this bill make it forward. **(Attachment #4)**. We don't have nuclear power plants, but we have many others and lines of communication, basic communication networks, banking and finance, power generation and distribution. Those are all critical infrastructures.

Chairman Cook -- Oil and gas storage?

Greg Wilson --Yes. I have a list and can get back to you if the committee requests it.

Chairman Cook -- We would.

Greg Wilson -- If we're going to adopt the definition in law, let's have it be what is really in my opinion, commonly understood across this nation as critical infrastructure. The second amendment is just a couple word insertions and essentially what we're saying is that as we define disaster or emergency remediation work, where we talk about needs repairs or replacement of critical infrastructure that has been or is under a threat so really there are times to define that prework as reinforcement type work in the definition.

Chairman Cook closed the hearing on SB 2095.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2095
1/28/2015
Job Number 22744

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachments #1, 2

Chairman Cook opened the work meeting on SB2095.

Dee Wald, General Counsel, Office of State Tax Commissioner.

This bill was a uniform bill that was drafted without taking into account North Dakota tax law and other North Dakota law so we drafted amendments, and I think it is easier to go through the Christmas tree, that would make the bill a little easier to read and understand, and also to make conforming amendments for the state. The big ones start on page 2, lines 4 through 12. You'll see that we changed disaster or emergency work to require that they had no business nexus in this state prior to the work they are in the state to do. And that is on lines 5 through 7. We also took out, on line 8, the words requested by an officer or agency of this state. And what we did instead was create a definition of requesting entity and you'll see that on lines 18 to 19. There is no substantive change to the intent of the bill. On page 2, lines 20 through 34, we took out on line 24 the words level of business presence. In the tax world, there's really not a level of business. You either have it you don't, for state tax purposes. We kept in the language that would require that the business or its out-of-state employees be subject to any registration requirements or fees. On lines 29 to 34, there was concern that some of these individuals coming into the state might not have valid licenses to do business in this state and so, to avoid having shoddy work done, we added the language that the out-of-state business or employee has a valid license to perform that business or occupation from their principal place of business or employment. If you are coming in from Oklahoma, you have a license to be an electrician in Oklahoma, then you can do business in this state without further registration. On page 2, lines 32 to 34, the secretary of state has a fast registration process, I placed language in here that they must comply with those processes.

Chairman Cook -- Do you know what the registration fee is?

Dee Wald -- I do not.

On page 2 of the original bill, lines 14 through 30 and then the top of page 3, there were about 15 different concepts within that paragraph. In effect what we are doing is creating subsections that cut that paragraph down into workable sections. Section 2, the new one, says that during that period that business or employee will not be required to file or pay any tax administered by the tax commissioner and that they will not be required to pay any sales and use tax on equipment used or brought into the state temporarily for use during the disaster remediation work and then clarified that if the equipment is removed from the state within a reasonable period of time, they still don't have to pay the tax. We discussed the meaning of "a reasonable period of time". If it's winter, we would consider a period of 6 months reasonable; however, if the end of the remediation period is in the middle of summertime, we would impose the use tax on them.

Senator Bekkedahl -- What if the event that precipitated their entry into the state is ended but they took advantage of that time period to go and do other work while they were in the state? Is there any referencing to that in here that it has to be solely tied to the remediation effort and they can't take on other jobs just because they have their men and equipment here and it's still within that window of permissiveness delineated in this language?

Dee Wald -- That is not in this bill. I don't know if we'd be able to police that.

Chairman Cook -- You've got a line in there that they have to come in at the request of the requesting agency and then you define that.

Dee Wald -- That's the intent of the bill. On line 18, page 2, requesting entity is defined as an officer or agency, political subdivision, or a business registered in this state. The one thing that does put some limitations on that though is that there still has to be that declared state disaster emergency.

Chairman Cook -- When I first approached this bill draft, I was not thinking of a state or political subdivision being the requester. I was thinking only of a business that is already in this state that needs help to do their work. When I'm looking at the types of businesses that would come in, would they come in at the request of a political subdivision or a city or state? I'm thinking telecommunications and power, number one.

Dee Wald -- We did not do anything with that. I think tying the requesting agency to, at least a state, if the water commission needs some help, or oil and gas division needs some help, I can see where they might want to ask somebody to come in.

Senator Laffen -- Mr. Chairman, are you wondering if a political subdivision would ever bring somebody in? That happened a lot during the Grand Forks flood. All of the engineers and architects were all swamped doing work. They needed basic infrastructure like lift stations where they might contract with a big plumbing shop to restore these lift stations. That actually is my biggest concern. I don't quite understand how this bill is written. For instance, within the lift stations, there are some major electrical components, do the electricians that the contractor would bring with them still be required to carry a Minnesota electricians license?

Chairman Cook -- Senator Laffen, we have in place a process where those type of workers can come into the state, register, get licensed, pay our unemployment, and those are the people that I think should continue to go through this existing process. What we are attempting to do with this bill is a second means where, and this is where I visualize the coops from all over the country coming here to help out existing businesses that just can't get the work done in a short window of time.

Senator Oehlke -- Now it looks like it has gotten bigger than you intended, Mr. Chairman. If there is a catastrophe like the flood of '97 in Grand Forks we have the Department of Emergency Services that operates underneath the auspices of the National Guard and they can probably do all of this stuff anyway. I would guess that they didn't testify and I would like to hear from them to see how they can handle it.

Chairman Cook -- Senator Oehlke, the first bill was bigger than I envisioned. I'm trying to narrow the scope with the amendments.

Senator Oehlke -- I know AT&T testified and they said they'd like to bring in their people from other states. They are your employees and if you've got a branch company in some other state, you don't need to jump through all those hoops and register them. They are your employees.

Chairman Cook -- Senator Oehlke, AT&T, that's a perfect example. They are bringing in other employees. The intent of the bill is that when these other employees come from another state, they don't have to pay state income tax in North Dakota. They pay their income tax in the other state.

Dee Wald -- Some of those individuals may be small businesses who are subcontractors.

Chairman Cook -- And for those smaller subcontractors I would want them to come in under the processes that we have already established. I don't want them to be affected by this bill.

Senator Laffen -- If that's the case then, it seems that the bill should just deal with those things like income tax and things like that and not licenses. That's the part that makes me nervous. There's reasons why we have registration and license laws. To protect the public.

Chairman Cook -- These folks I envision them having a license; it's just a license in another state. Do we need them to get a license in this state also?

Senator Laffen -- No, we wouldn't need them to get a license in this state. I just want to make sure that is what it says.

Chairman Cook -- And that is what I'm trying to accomplish.

Dee Wald -- That's what it says. They don't need to register or subject to tax if the out-of-state business or employee has a valid license to perform that business. That's on page 2, lines 31 to 32.

Senator Laffen --And that's an add you put in this amendment then because we heard a lot of testimony saying we can't exempt these guys from license. That's what you've added here in the green.

Dee Wald -- Yes.

Senator Bekkedahl -- I'm getting confused then. If I read it in total, on that section 1, 37-17.5-02, paragraph 1, "an out-of-state business that conducts operations within this state for purposes of performing disaster or emergency remediation work or services during the disaster response period must not be considered to have established a business presence that would require that business or its out-of-state employees to be subject to any state or local business licensing or registration requirements or state and local taxes or fees including unemployment insurance, workers' compensation, state or local occupational licensing fees if the out-of-state business or out-of-state employee has a valid license to perform that business or occupation from the principal place of business". That's exactly as you intended, I believe. End of 32 to 34, "the out-of-state business or out-of-state employee shall register with the secretary of state and pay applicable registration or other fees imposed by that agency". That's our North Dakota secretary of state? That's what that means?

Dee Wald -- First of all, out-of-state employee needs to be taken out of there. And that's what it means. I may have misunderstood what the amendment was supposed to do.

Senator Bekkedahl --Because up above it says the out-of-state employee is not to be subject to any state or local business licensing or registration requirements and then down here it says they shall register with the secretary of state. Am I missing that? Does it seem that they are in conflict?

Dee Wald -- Then we would take out that last sentence beginning on line 32, starting with the and then remove lines 33 & 34.

Chairman Cook -- Do we have to take out-of-state business out of there?

Dee Wald -- If you do not want to have any registration with the secretary of state, Mr. Chairman, then that needs to come out too. But if you do want them to register with the secretary of state, then you would remove "or out-of-state employee". In any event, out-of-state employee needs to come out. So cross that out "with the secretary of state registration".

Chairman Cook -- On line 31?

Dee Wald -- Starting on line 32 to 34. That would not require them to register with the secretary of state.

Chairman Cook -- But you said that we had to take out "out-of-state employee". That's on line 31?

Dee Wald -- That's on line 33. On line 31, that individual has to have that valid electricians license.

Chairman Cook -- That one stays?

Dee Wald -- It's that last sentence that requires the registration with the secretary of state.

Chairman Cook -- I don't care myself if the business registers just so the out-of-state employee gets in here without.

Senator Laffen -- During the Grand Forks flood the city of Grand Forks set up a place where all of these companies could come and sign up and register so that they know who they were, how to get ahold of them. And there were issues. I think there's a good reason to know who is in there working. I'd prefer to keep some sort of a registration process.

Senator Triplett -- It was done in the city but it was all the state agencies working together.

Chairman Cook -- I don't see what we do existing already in Grand Forks, what we did in Minot, where we had this one-stop shop for all of these out-of-state workers that are coming in. I'm just trying to carve out a group of these out-of-staters that might come into this state from having to stop there. The groups are the people that are going to come in to put up power lines, telephone lines. That's the group that I envision.

Senator Laffen -- Does it limit that anywhere?

Chairman Cook -- That's our problem on the very first page and the definition says use of this chapter critical infrastructure. That has to be narrowed down, Dee. Narrowed down to communications network, electric generation, transmission or distribution system.

Senator Triplett -- Didn't we hear from our emergency services folks that they would like to keep that definition consistent across the board with the federal definition and all that. Maybe we should use a different phrase so as not to confuse.

Chairman Cook -- That could be. You may be right. Greg. Mr. Wills?

Senator Oehlke -- I'd agree with that. I'd like to hear from him. I'm looking at the emergency services portion of the century code and I don't see where they can't do these things already on an emergency basis. They weren't around in '97. They weren't created until later. They would be the coordinating agency at this point. If you look at what their abilities are, what their limitations are, what they are responsible for, it's manmade or natural disasters or emergencies, threats, and it goes on to homeland security. Their responsibility is broad. Their data base is extensive for resource people. Are we reinventing something that already exists?

Chairman Cook -- We may be.

Dee Wald -- Regarding the statement about having the emergency services coordinator come testify, when the governor declares a disaster in the state, I'm 100% sure that he

contacts that commission and they would determine, under the law, critical infrastructure, whether a disaster had occurred. If we limit this for just transmission, communication network, electrical generation transmission or distribution system, then we're limiting to a small portion and I do think that, by implication, that critical infrastructure definition is in there. Because of the fact that that agency, in consultation with the governor, would determine whether a disaster has occurred.

Senator Bekkedahl -- Could you use the language that critical infrastructure in this definition refers to the essential components of communications network, electrical generation transmission or distribution system and just leave it at that. So you delineate the language. You can still use critical infrastructure but just say which aspects of critical infrastructure?

Chairman Cook -- For purposes of this chapter?

Senator Triplett -- I know that we reserve the right to do that and our statutes say that we can define the same words differently in each and every chapter as we go, I've often thought that was a mistake. And, even though we can do it, I don't think that we ought to do it more often than we need to. Especially in something like this where people are going to be reading fast. Having confusing and conflicting definitions in different parts of the code seems unreasonable to me. If you want to do this, don't call it critical infrastructure.

Dee Wald -- Page 3, beginning lines 8. This is the income tax subsection. What we are doing is when the uniform draft was very broad and was drafted broadly to apply to a number of different states and different income taxing systems. What we did here was, we took out the language that didn't apply to us and clarified also that the language on 16 through 19 is what North Dakota should have. What it is saying is that if you are a corporation and you are doing business in this state, in order for that combined group of businesses to not have to pay tax on what they earned here, we're saying that within your apportionment factor, don't put it in the numerator. Don't put it as North Dakota income. Don't put it in your North Dakota payroll. Don't put it in your property.

Chairman Cook -- Is this legal under the multistate tax compact?

Dee Wald -- Yes. And, that's what that's doing. It's conforming the income tax laws for out-of-state businesses to conform with how we tax corporations in North Dakota. Line 20, we took out residency or/and, for income tax purposes, residency is kind of squishy concept for tax purposes. We just used the phrase presence in this state that would not require that individual or that employer to file or pay income taxes and income tax withholding during that disaster response period. Subsection 5, that is dealing with purchases of items while they are in the state.

Chairman Cook -- They should be subject to sales tax.

Dee Wald -- And that's what the original bill did and that's what this section does. Page 4, lines 1 through 5. This is where it's clarifying, after the disaster response period, if they stay here then they are subject to our business registration, income taxes, local taxes. So at that time they would have created a nexus.

Senator Oehlke -- How do we know when the disaster response period ends?

Dee Wald -- That is defined on page 2 of this Christmas tree, lines 1 through 3. A period that begins 10 days prior to and ends 60 days after the declaration. On lines 6 through 25, the original bill just had the business provide information to the tax department and the secretary of state; however, we aren't a department of revenue like other states are and so we had to add, on lines 8 through 10, that they had to provide a statement that they are in the state for the sole purpose of doing this disaster remediation work. On lines 11 through 14, we clarified on line 14 that date of entry into the state; and then, for our purposes, we needed to know who their out-of-state business tax matters person is. That phrase is on our form for corporations for them to identify their TMP. On line 21, it says the tax commissioner and secretary of state shall adopt rules and procedures. We've got to get the other entities involved.

Chairman Cook -- We are going to take one more stab at this, Dee. And I want to communicate with Mr. Wills. If we can get to somewhere, we will. If not, we'll just bury it.

Chairman Cook -- Adjourned until 9am Monday morning.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2095
2/3/2015
Job #23105

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Committee work.

Minutes:

Chairman Cook opened the committee work on SB2095.

Dee Wald -- The first thing we did was we met with Mr. Wills and now, if you look on page 1 of the Christmas tree bill, lines 13 to 22, we incorporated the definitions that are used by emergency services that are based on federal law to define what critical electrical and telecommunication transmission infrastructure means. What they want is to not have to pay taxes during that period of time that they are in the state. What we did was remove some of the registration requirements that they would have to do if they come to the state, except we are still leaving in the locals ability to register them. We added a definition on page 2, line 25, requesting entity, again, we left that as officer, or agency of this state, political subdivision or a business registered in this state. If, for instance, Basin needs someone to come into the state to help them, if there's been a disaster declared, they can do so. State agency is a new definition and that means tax commissioner, workforce safety and insurance or job service. Those are the three entities. We incorporated those three agencies into one definition of state agency.

Senator Oehlke -- Does that apply to a company who is already here and they are just bringing in employees from another state? Or does it have to be a whole new company coming in working as a subcontractor or something?

Dee Wald -- No, it would apply to out-of-state employees if it was just the employee and that is found on page 2, line 20, where we start the definition of out-of-state employee. It applies to the entity itself, and its employees and an individual themselves.

Chairman Cook -- How would an individual be requested to come to the state of North Dakota?

Dee Wald -- I could see that if you had a contractor that was doing business in the state, fixing widgeits, and that contractor needs additional help and they could ask that individual or employee to come into the state, alone, they could do so but they didn't necessarily have to

come with their whole company. If they are here for 60 days or more, we have some withholding and reporting requirements to us.

Chairman Cook -- Why 60 days? If they were here 1 day or more?

Dee Wald -- If you remember we passed mobile workforce act.

Chairman Cook -- But no other state has.

Dee Wald -- That's correct.

Chairman Cook -- So the 60 days don't apply?

Dee Wald -- Our law requires the other state to reciprocate.

Chairman Cook -- But there is none.

Dee Wald -- There are states that have de minimis rules that aren't exactly like North Dakota's.

Chairman Cook -- Se we have reciprocity with Utah?

Dee Wald -- That's one state. Some states have really small de minimis, like 5 days. Then on page 2, to continue, line 33 and the beginning of 34 is just a technical change. The overstruck language that would require that business to register to do business or file or remit state taxes or that would require the business or its employees to be subject to any state or local business licensing or registration taxes. They don't have to register but we are saying that business or out-of-state employee still must have a valid license to perform that business or occupation to prevent shoddy work.

Senator Oehlke -- They are not going to have to pay sales tax on stuff they buy to do the job or anything either. When they go into the store and say they are out-of-state and don't have to pay tax, how as a retail owner, do I know that?

Dee Wald -- Look on page 4, lines 1 through 7, that deals with purchases that are made by the business or the employee while they are in the state and they are subject to the tax that is imposed when they purchase something in North Dakota. They don't have to pay sales or use tax if they bring that equipment or other tangible personal property in to the state from their principal place of business.

Chairman Cook -- Going back to page 2, line 20, out-of-state employee definition. Means an employee who does not work in the state, except for disaster or emergency related work during the disaster response period. My definition of an out-of-state employee would mean an employee who was working for an out-of-state business brought in to this state for disaster relief. I don't see any circumstances where I'm looking at an individual coming in to the state of North Dakota to do disaster relief work and being subject to this.

Dee Wald -- That would be very easy to fix.

Chairman Cook -- But as we go through the rest of the bill, it's that definition that creates some confusion.

Dee Wald -- All you would have to do to change that would be an employee employed by an out-of-state business or an out-of-state business affiliated with a business registered in this state. That would tie that employee to a company. If you just put employed by an out-of-state business that would be fine.

Again, back on page 3, lines 6 through 7, and maybe we can take this out now about having a valid license because I can't imagine that there is a major corporation that wouldn't have that license or expertise to perform the work that they are being asked to do.

Chairman Cook -- That's okay we can still leave it in. Lines 6 & 7 on page 3.

Dee Wald -- Page 2, lines 8 through 14, clarifies that about the taxes. They aren't going to be required to file or pay any state or local tax administered by state agency. They are not required to pay any sales tax on equipment used or brought into the state, if they take that equipment out of the state within a reasonable period of time after the disaster response. Lines 15 through 26, that is just clarifying or changing the income tax requirements or non-requirements, exemption, to accommodate how our North Dakota corporate income tax law works. Section 4, beginning on line 27, that deals with the presence of the employee itself. That they don't have to be subject to income tax, income tax withholding, or those kinds of taxes. Going back to page 4, the first 7 lines, that's where we talked about the sales and use tax they have to pay while they are in the state. Beginning on line 8, that's the clarification that, after the disaster response period, if you stay in the state, you must register and pay the taxes that would otherwise be required but for the disaster. On lines 13 to 31, it's where we clarify that they have to provide their names to us but that is it. Lines 27 to 31, allow each of us to develop procedures and rules to implement this particular chapter.

Chairman Cook -- These Christmas tree amendments here, I'm thinking of this bill on the 6th order. Can we turn it into a hog house?

Dee Wald -- That's easy enough to do.

Chairman Cook -- Will you turn that into a hog house amendment with the changes we made in the definition for out-of-state employee? Any other questions from committee members?

Senator Triplett -- I understand that you and Senator Dotzenrod are the sponsors of this bill, I'm just not entirely convinced that this is such a problem that it really needs a solution. I'm okay with the amendments but I still might vote against the bill.

Chairman Cook -- Senator Dotzenrod signed on when I convinced him.

Senator Dotzenrod -- When we had the hearing on the original bill, the secretary of state came in and wanted to make sure that whatever we did with this bill, that we did not change the way that the secretary of state gets the information from these people when they come

in, that they are qualified, they've got the proper credentials to do the kind of work they are supposed to do. This bill, those processes that the secretary of state wants, has used in the past, and will in the future, they are unaltered by this bill.

Chairman Cook -- I think the secretary of state is concerned over a lot of different things. Number one, probably if they are registered for income tax, workers comp and all that and what we do here is for this small group of people we take away that requirement. He has no business to worry about it, in my mind, if that is the policy that the legislature sets. If the bill gets over to the house, he'll have the opportunity to speak to that committee also.

Dee Wald -- On page 4, all the agencies are asking: who these people are? We don't want to audit them or do anything and we're still saying that the secretary of state can get these names. That's all they can do.

Senator Oehlke -- This question may be more for either an insurance person or someone from workforce safety. You mentioned WSI and that brings up a question I have: when I've worked with workers comp from other states and WSI, I would like to know if one of these people comes into the state of North Dakota their company is not paying any workers comp to WSI but they are hurt here. Are they, for sure, going to have coverage from the state they come from or is that state's workers comp policy going to say, well that happened in North Dakota and they have their own stand-alone type coverage and so you had to apply and make sure that you were on board. Your company did. I didn't see in this bill where we absolved everything for WSI. That's a major concern for me. This is dangerous work. It's emergency-type stuff.

Dee Wald -- Senator Oehlke I can give you what I know about workforce safety and other states. There's a conflict. Some states, if their employee is working out of state, they don't cover them; some states, if they are from out-of-state and working in their state, then the employer must pay workforce safety insurance on them while they are in that state. I don't know if there is an easy answer to that.

Senator Oehlke -- I realize that. That's why I asked the question. That's why if someone is coming in from another state, if they need to have workers comp coverage here in order to be covered, because their other states coverage from wherever won't provide coverage here, then it doesn't solve our problem because they got to register somewhere. I'd like to know the answer.

Chairman Cook -- I'd like to know the answer too. It's a legitimate question.

Dee Wald -- Many states don't have a state-run.

Senator Oehlke -- There's only 2 left, us and Iowa, that have a captive program. The rest have all given up that whole idea and gone public.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2095
2/9/2015
Job #23518

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

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Chairman Cook opened the committee work on SB2095.

Anne Jorgenson Green, Attorney with Workforce Safety and Insurance

Chairman Cook -- There was a question raised about workers comp implications. Can you speak to the workers comp issues regarding that bill if workers were to come in here? The bill waives the workers comp requirement while they are working in the state of North Dakota.

Anne Green -- Correct. Is there a specific question that you have?

Chairman Cook -- Are they all covered by workers comp in their home states?

Anne Green -- Arguably, yes. All employers, regardless of the jurisdiction, are required to have some sort of workers compensation coverage, depending on the specific laws of their own jurisdiction. Arguably, they could come into North Dakota, based on the language of the bill, that is before any amendment, the 10 days retrospectively and the 60 days exposure in the state would be permissible from North Dakota Workers Compensation law perspective as an acceptable temporary incidental exposure within the state, without the need to buy coverage here. There are a couple other subtleties as it applies to that bill but as a general matter, if I'm answering what I believe the question is, for workers compensation purposes, they could use their out-of-state coverage for temporary exposure in this state.

Senator Oehlke -- I guess the question would be, does their out-of-state coverage then, for sure, have to have endorsement, or would it just be their out-of-state friendly endorsement that they have on their existing workers comp coverage. People could come here from any state. They could come here from Nebraska or Colorado or something like that. We are talking emergency situations here. And we are talking about allowing anyone to come and help us. So anybody that comes in they don't have to register, they don't have to be with

the secretary of state, that don't have to do anything, they just have to show up. They don't have to pay taxes. They don't have to pay sales taxes on stuff they buy. They don't have to have proof of workers comp here.

Chairman Cook -- They have to pay sales tax on things they buy here.

Senator Oehlke -- My questions was: what if they get hurt?

Anne Green -- The first part of your question, as I understand it, is really an endorsement question and my understanding is that an employer who is travelling outside of his home jurisdiction would be responsible for insuring that his coverage followed him. That he had specific coverage for wherever he was going out-of-state. My experience in the private workers compensation market is that often workers compensation policies will specifically exclude monopolies, of which North Dakota is one. It would be incumbent upon the employer coming into the state to insure that their private work comp coverage was covering the risk that they were bringing in to the state. If the claim were filed here, assuming this law were in place, we would take a look at the file, we would analyze the exposure in the state, we would have access to some sort of indication that they were part and excluded under this particular law and would decline jurisdiction on a claim filed in this state. That presupposes that this out-of-state business has brought all of their employees with them into this state. One of the things that we discussed internally at WSI was, what if that out-of-state business came into North Dakota and hired North Dakota workers, that would be a challenge, simply because a North Dakota workers would, in all likelihood, want to file for benefits here in North Dakota; or, as we've seen in the oilfields, pretty substantially, an out-of-state business comes into North Dakota and hire Idaho and Texas and Louisiana workers, where does that claim reside.

Chairman Cook -- The way I understand the bill, they are coming in here with their existing employees and not hiring them here.

Senator Oehlke -- Can you hear me say, ha ha ha?

Chairman Cook -- I can hear it but I don't see it. Any further questions for Anne?

Anne Green -- If I could just be heard briefly on one other issue, we thought that potentially it might make sense if there is a requirement for a business coming in to the state to do business here, to notify various state agencies, it might sense for those businesses coming in to the state to also provide WSI with proof of coverage.

Chairman Cook closed the committee work.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2095
2/10/2015
Job #23570

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opened the committee work on SB2095.

Dee Wald, General Counsel, Office of State Tax Commissioner

After the last set of amendments, you asked that we do a hoghouse to SB2095 and that is the amendments that you see before you. I'm going to walk through the bill and tell you what each section does now. **(Attachment #1)**

Senator Oehlke -- When we have subcontractors that work for a contractor, which a lot of these folks would probably be, generally they provide that proof of insurance and workers comp statement, for wherever they are from, I don't know if they are used to providing it directly to workforce safety. I don't have a problem with it but I don't know if they would know to do that, or if the general contractor that's hiring them, since we aren't requiring all this stuff, would even think to ask. How are they going to know that they need to provide this proof to workforce safety and insurance?

Dee Wald -- I believe that the tax department will put something in its newsletters that is provided to general contractors so they would know to do that. I would hope that workforce safety would do the same, within their policies and procedures. I don't know how to get the word out but that is with any change in the law. I know what we do when there's a tax change.

Senator Oehlke -- Some of our disasters where people would be required to come in and help are not predictable. But the big ones that I think of, like the flood in the Missouri River system or up in Minot in the Mouse, are pretty predictable and maybe emergency services could also assist with listing requirements. We want to make sure that your people are covered while they are working here.

Dee Wald -- That is one way, that when that disaster is declared that emergency services could provide that information.

Chairman Cook -- We have a definition on page 2, line 19, for requesting entity. It means an officer or agency of this state, political subdivision, or a business registered in the state. I'm looking for the place where requesting entity is used in the bill that would require that definition. And my understanding is that the only way an out-of-state business would be subject to this is if they were requested to come and help by requesting entity. I am wondering if, somewhere, did that get lost in the amendments, or maybe it is still in there and I just can't find it.

Dee Wald -- You may be right.

Chairman Cook -- I have trouble understanding Senator Oehlke question and now I think I know why but my understanding is that anybody that is going to come in and be able to take advantage of this is going to be somebody who is invited in by an existing business or a political subdivision and during that invite they would certainly be told of what they have to do to come in to help.

Dee Wald -- You are right. That did get lost and I am looking to where we could stick that back in and I believe that it would be in subsection 1.

Senator Triplett -- It is still in the amendment. At least indirectly by being inside the definition for out-of-state business, page 2, lines 9 through 14. They define out-of-state business by the fact of being requested in.

Dee Wald -- Thank you for finding that. Sometimes the definitions are in the definitions.

Chairman Cook -- So an out-of-state business in one that has come to the state at the request of a requesting entity.

Dee Wald - Yes, which is the requesting entity on line 18.

Senator Dotzenrod -- Does this bill, the way it is written, have any effect on the relationships between REC's that are in North Dakota, South Dakota, Minnesota? Because it seems that quite often when we have these ice storms and there's power lines down that the workers that come in to North Dakota are not necessarily contractors, although they could be. It doesn't look like they would fit the definition that we have in here. Are they unaffected by this bill?

Chairman Cook -- I would hope not. That's exactly who I want to be in this bill.

Dee Wald -- Let's first look at the definition of requesting entity. It includes on line 20 a business registered in this state. If, in your example, the power coop has some out-of-state affiliates, they can ask those out-of-state affiliates to come in and help them with the work. That is exactly what Senator Cook's bill wanted to do and this does. If you see then, with respect to the exemptions from all of the taxes and such, that applies to the out-of-state affiliate too.

Senator Dotzenrod -- I was wondering if, in the law, we make any distinction between somebody that a contractor and has a contracting business and, on the other hand, REC work units that are part of a coop system in a different state. This law is critical electrical and telecommunication transmission infrastructure. I'm thinking a lot of these ice storms we've had so there's some power lines down and maybe even some of the structures are down we get these other affiliates in from out-of-state and the way we use the term out-of-state business here, it looks to me like we are not trying to make any distinction with that definition between REC coop affiliates and private contractors who may have several backhoes or cherry-pickers and these kinds of things that they can use to do that kind of work. We are not making any distinction between the two, correct?

Dee Wald -- If an in-state business, and we use the word business and that includes contractors, coops, any kind of business that is registered in this state, if they call in an out-of-state affiliate to bring in their backhoes. There is no distinction.

Senator Dotzenrod -- When that out-of-state affiliate comes in, they are meeting the definition that's on page 2, line 9. They are an out-of-state business for purposes of this law?

Dee Wald -- That's in the definition of out-of-state business. If you look on line 10, it starts affiliated solely through common ownership with a business registered in the state. That, prior to the disaster remediation period, wasn't in the state at all.

Senator Dotzenrod -- So both of those entities, the coops, the affiliates, and the private contractors will fit in the definition we have on line 9?

Dee Wald -- There is no distinction between any kind of business. It has to be a business registered in this state or an out-of-state business that is requested by emergency services to come in, for example. Or, it's in-state affiliate, or the governor.

Senator Dotzenrod -- They are here doing some work, it might be a contractor in this case, rather than an affiliate, but they have a piece of equipment that's been giving them trouble and they decide to go buy a new one, a bobcat, or a backhoe, a late model used one or a new, the sales tax on that, where is that sales tax and how we treat that identified in the bill?

Dee Wald -- If there is an in-state business that needs a new backhoe or cherry-picker, that in-state business has to pay tax on the purchase of that machinery or equipment. This does not affect an in-state business who is doing disaster remediation period and their tax liabilities. They would pay taxes just the same. Now, if that out-of-state affiliate has to come in, I would assume that the in-state business may buy it. An out-of-state affiliate may buy that piece of equipment and they are subject to tax in subsection 5 on page 3, if they purchase it in the state.

Senator Dotzenrod -- An electrical contractor company out of Alexandria, Minnesota comes in and is doing some work and while they are here maintenance issues on a machine are too much and they just go buy a new one. They are going to be covered then and that sales tax will be due on that item on page 3 on the bottom.

Dee Wald -- That's correct. Any purchases made by any business while in the state are subject to sales tax.

Chairman Cook -- Any other questions. Thank you, Dee.

Senator Oehlke -- I'd move a do pass on the amendment 15.0321.01000.

Senator Dotzenrod seconded.

Chairman Cook -- We have a motion and second to amend SB2095 01000. Discussion?

Senator Laffen -- I wish I could remember the 4 things you always ask on a bill, is there a problem and does it solve the problem. I think this would solve a problem, if there is one, can you remind me what the problem is?

Chairman Cook -- What the problem that this is trying to solve, and it may not be as big a problem in North Dakota as it is elsewhere, so that if there is a disaster you get the people into that need to fix the disaster as quick as possible and as smooth as possible. The second thing this is trying to do is that these folks that come in to the state of North Dakota fix a disaster, live out of suitcases, and then go back home, are not subject to our tax policies while they are here. Or our licensing fees.

Senator Dotzenrod -- When we had the hearing the secretary of state's office came in and spoke in opposition or pointed out some real issues they had. They didn't like some parts of it. Have we satisfied them?

Chairman Cook -- I'd say that we have. The first bill was a lot more than I wanted it to be.

Senator Laffen -- The first bill sort of relieved anybody of having to tell anybody that they were here, and that came out in subsequent amendments.

Chairman Cook -- We have a motion to amend.

Roll call vote 7-0-0.

Chairman Cook -- We have before us SB2095, as amended.

Senator Triplett -- I would move a do not pass, if I could get a second, I'll explain.

Senator Dotzenrod -- Second.

Senator Triplett -- I agree with what Senator Laffen just asked on the amendment. I think it is more germane to the bill, itself. I just don't see that we have any kind of significant problem that needs solving here. I think our agencies have shown themselves very capable of working closely together in times of disaster to do their one-stop shop to get people up and running. If we are talking about established groups bringing in affiliates, they certainly know the ropes and can help people get in here quickly and get going. This

seems like more trouble than it's worth for our tax folks. I think it's a solution looking for a problem.

Senator Dotzenrod -- I agreed to be a sponsor but that has been a concern of mine, since we had the hearing when the secretary of state expressed that they have a system in place that they feel pretty happy with. At the hearing we learned that functionality is there. We are achieving the things we need when there is a disaster.

Senator Oehlke -- Unfortunately, the day this bill was initially being heard I was not here. I wasn't too enthused about the whole idea with the concerns expressed by the other senators, I think the amendment makes it better but I'm not over enthused about it. I think the way we handle the process now is okay.

Chairman Cook -- We have a motion for a do not pass on SB2095.

Roll call vote 5-2-0

Carrier: Senator Dotzenrod.

February 10, 2015

1 of 3
TD
2/10/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2095

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 37-17.5 of the North Dakota Century Code, relating to facilitating entry of an out-of-state business to perform disaster or emergency remediation work in this state, on critical electrical and telecommunication transmission infrastructure, and to provide a limited exemption for that purpose from state and local taxes and fees, licensing, and other requirements during the time in this state employed in disaster or emergency remediation work; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 37-17.5 of the North Dakota Century Code is created and enacted as follows:

37-17.5-01. Definitions.

As used in this chapter:

1. "Critical electrical and telecommunication transmission infrastructure" means real and personal electrical and telecommunication transmission property so vital to the state that the incapacity or destruction of that electrical transmission or distribution system or telecommunications transmission system would have a debilitating impact on public health or safety, economic, and physical security of the state or region.
2. "Declared state disaster or emergency" means a disaster or emergency event for which a:
 - a. Disaster or emergency has been declared by the governor; or
 - b. Presidential declaration of a federal major disaster or emergency has been issued.
3. "Disaster or emergency remediation work" means repair or replacement of critical electrical and telecommunication transmission infrastructure that has been, or is under threat of being damaged, impaired, or destroyed by the declared state disaster or emergency.
4. "Disaster response period" means a period that begins ten days before, and ends sixty calendar days after, the declared state disaster or emergency and includes any extension of that time provided by executive order of the governor.
5. "Out-of-state business" means a business entity, including an out-of-state business affiliated solely through common ownership with a business registered in this state that, before the disaster remediation period, has no business presence in this state and which is in this state to perform

disaster or emergency remediation work at the request of a requesting entity.

- 6. "Out-of-state employee" means an employee employed by an out-of-state business.
- 7. "Registered business" means a business entity registered to do business in this state prior to the declared state disaster or emergency.
- 8. "Requesting entity" means an officer or agency of this state, a political subdivision, or a business registered in this state.
- 9. "State agency" means job service North Dakota, the secretary of state, the tax commissioner, or workforce safety and insurance.

37-17.5-02. Business and employee status during and after disaster response period.

- 1. An out-of-state business that conducts operations within this state for purposes of performing disaster or emergency remediation work or services during the disaster response period must not be considered to have established a business presence that would require that business or its out-of-state employees to be subject to any state and local taxes or fees including unemployment insurance, workers' compensation, or taxes administered by the tax commissioner. The out-of-state business or out-of-state employee shall have a valid license to perform that business or occupation from the principal place of business or employment.
- 2. During the disaster response period, the out-of-state business or out-of-state employee may not be required to file or pay any state or local tax administered by a state agency. The out-of-state business or out-of-state employee may not be required to pay any sales and use tax on equipment used or brought into the state temporarily for use during the disaster response period if the equipment is removed from the state within a reasonable period of time after the disaster response period.
- 3. For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business which is conducted in this state under this chapter must be disregarded with respect to any filing requirements for a tax, including the income tax return required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, the apportionment factors attributable to the performance by an out-of-state business of any work under this chapter may not be sourced to this state by the out-of-state business or any member of its affiliated group.
- 4. An out-of-state employee may not be considered to have established a presence in this state which would require that individual or that individual's employer to file or pay income taxes or to be subject to income tax withholding, or to file and pay any other state or local tax or fee during the disaster response period. This includes any tax or fee, imposed by a state agency, but does not include any transaction taxes or fees as described in subsection 5.

- 5. Out-of-state businesses and out-of-state employees are subject to fuel taxes and state or local sales or use taxes on materials or services purchased, consumed, or used in this state which are subject to sales or use taxes, hotel taxes, or car rental taxes or fees which the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the state during the disaster response period.
- 6. After the disaster response period, any out-of-state business or out-of-state employee that remains in the state after the disaster response period is subject to any business or employee registration and tax requirements that apply.

37-17.5-03. Notification by out-of-state business during and after disaster response period.

- 1. An out-of-state business that enters the state for disaster or emergency remediation work shall provide to the state agencies, a statement that the business is in the state for the sole purpose of responding to the disaster or emergency. The statement must include the business name, or out-of-state employee's name, state of domicile, principal business address, federal tax identification number, date of entry into this state, and contact information, including the out-of-state business's tax matters person. An out-of-state business must provide proof that its workers have worker's compensation insurance to workforce safety and insurance.
- 2. A registered business in this state shall provide the information required in subsection 1 for any out-of-state affiliate that enters this state.
- 3. Each state agency shall develop procedures and issue forms or online processes to carry out these administrative procedures, and maintain and make available a record of any designations made by an out-of-state business or out-of-state employee pursuant to this chapter.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-10-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2095

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0321.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Oehlke Seconded By Sen Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-10-15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2095

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0321.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Triplett Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook		✓	Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen		✓	Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Dotzenrod

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2095: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2095 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 37-17.5 of the North Dakota Century Code, relating to facilitating entry of an out-of-state business to perform disaster or emergency remediation work in this state, on critical electrical and telecommunication transmission infrastructure, and to provide a limited exemption for that purpose from state and local taxes and fees, licensing, and other requirements during the time in this state employed in disaster or emergency remediation work; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 37-17.5 of the North Dakota Century Code is created and enacted as follows:

37-17.5-01. Definitions.

As used in this chapter:

1. "Critical electrical and telecommunication transmission infrastructure" means real and personal electrical and telecommunication transmission property so vital to the state that the incapacity or destruction of that electrical transmission or distribution system or telecommunications transmission system would have a debilitating impact on public health or safety, economic, and physical security of the state or region.
2. "Declared state disaster or emergency" means a disaster or emergency event for which a:
 - a. Disaster or emergency has been declared by the governor; or
 - b. Presidential declaration of a federal major disaster or emergency has been issued.
3. "Disaster or emergency remediation work" means repair or replacement of critical electrical and telecommunication transmission infrastructure that has been, or is under threat of being damaged, impaired, or destroyed by the declared state disaster or emergency.
4. "Disaster response period" means a period that begins ten days before, and ends sixty calendar days after, the declared state disaster or emergency and includes any extension of that time provided by executive order of the governor.
5. "Out-of-state business" means a business entity, including an out-of-state business affiliated solely through common ownership with a business registered in this state that, before the disaster remediation period, has no business presence in this state and which is in this state to perform disaster or emergency remediation work at the request of a requesting entity.
6. "Out-of-state employee" means an employee employed by an out-of-state business.
7. "Registered business" means a business entity registered to do business in this state prior to the declared state disaster or emergency.

8. "Requesting entity" means an officer or agency of this state, a political subdivision, or a business registered in this state.
9. "State agency" means job service North Dakota, the secretary of state, the tax commissioner, or workforce safety and insurance.

37-17.5-02. Business and employee status during and after disaster response period.

1. An out-of-state business that conducts operations within this state for purposes of performing disaster or emergency remediation work or services during the disaster response period must not be considered to have established a business presence that would require that business or its out-of-state employees to be subject to any state and local taxes or fees including unemployment insurance, workers' compensation, or taxes administered by the tax commissioner. The out-of-state business or out-of-state employee shall have a valid license to perform that business or occupation from the principal place of business or employment.
2. During the disaster response period, the out-of-state business or out-of-state employee may not be required to file or pay any state or local tax administered by a state agency. The out-of-state business or out-of-state employee may not be required to pay any sales and use tax on equipment used or brought into the state temporarily for use during the disaster response period if the equipment is removed from the state within a reasonable period of time after the disaster response period.
3. For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business which is conducted in this state under this chapter must be disregarded with respect to any filing requirements for a tax, including the income tax return required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, the apportionment factors attributable to the performance by an out-of-state business of any work under this chapter may not be sourced to this state by the out-of-state business or any member of its affiliated group.
4. An out-of-state employee may not be considered to have established a presence in this state which would require that individual or that individual's employer to file or pay income taxes or to be subject to income tax withholding, or to file and pay any other state or local tax or fee during the disaster response period. This includes any tax or fee, imposed by a state agency, but does not include any transaction taxes or fees as described in subsection 5.
5. Out-of-state businesses and out-of-state employees are subject to fuel taxes and state or local sales or use taxes on materials or services purchased, consumed, or used in this state which are subject to sales or use taxes, hotel taxes, or car rental taxes or fees which the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the state during the disaster response period.
6. After the disaster response period, any out-of-state business or out-of-state employee that remains in the state after the disaster response period is subject to any business or employee registration and tax requirements that apply.

37-17.5-03. Notification by out-of-state business during and after disaster response period.

1. An out-of-state business that enters the state for disaster or emergency remediation work shall provide to the state agencies, a statement that the business is in the state for the sole purpose of responding to the disaster or emergency. The statement must include the business name, or out-of-state employee's name, state of domicile, principal business address, federal tax identification number, date of entry into this state, and contact information, including the out-of-state business's tax matters person. An out-of-state business must provide proof that its workers have worker's compensation insurance to workforce safety and insurance.
2. A registered business in this state shall provide the information required in subsection 1 for any out-of-state affiliate that enters this state.
3. Each state agency shall develop procedures and issue forms or online processes to carry out these administrative procedures, and maintain and make available a record of any designations made by an out-of-state business or out-of-state employee pursuant to this chapter.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2015 TESTIMONY

SB 2095



Cheryl Riley
Director-External Affairs

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#1
1-14-15

Senate Bill 2095

Finance and Taxation Committee

1/8/15

Cheryl Riley-AT&T President Northern Plains States

AT&T fully supports Senate Bill 2095 which will facilitate the entry of an out-of-state business to perform disaster or emergency remediation work in North Dakota. To ensure our customers stay connected when they need it most, AT&T and other companies often bring resources and personnel from other states to areas affected by natural disasters on a temporary basis.

Current laws require businesses and employees to go through the often slow and burdensome process of ensuring each employee is in compliance with state and federal regulatory, tax and licensing laws.

This disaster recovery legislation would amend these laws and give businesses the ability to focus on quickly responding to the needs of North Dakota and its citizens during an emergency.

This type of disaster recovery legislation helps us get our customers back on their feet, faster and more efficiently.

AT&T urges support of Senate Bill 2095.

Sincerely,

Cheryl Riley
President
AT&T Northern Plains States

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 14, 2015

#2
1-14-15

TO: Senator Dwight Cook and Members of the Senate Finance and Taxation Committee

FR: Al Jaeger, Secretary of State

RE: SB 2095 – Disaster and Emergency Remediation

In your review of this bill, I strongly encourage the committee not to eliminate any business registration or contractor licensing requirements that are administered by the Secretary of State.

I believe the requirements related to the Secretary of State's office in the bill will create a bureaucratic impediment to the timely business registration and contractor licensing for companies responding to a declared disaster or emergency within the state.

All of the laws and regulations required to respond to a disaster or emergency already exist. They provide protection for the public. And, they ensure that all companies intending to respond to a disaster and emergency are required to comply with the same registration and licensing laws as those domestic and out-of-state companies who have already done so.

In such situations, the Secretary of State has always expedited the registration and licensing of businesses. In other words, the process can easily be completed without resorting to the filing of a "statement" with the Secretary of State as referred to on page 3, line 22. Furthermore, this process will be greatly enhanced provided this legislative session provides the requested funding in the Governor's budget recommendation to complete an online registration software program in the Secretary of State's office.

In response to a massive disaster, such as the 1997 flood in Grand Forks, state agencies met and created a one-stop licensing center. It was used again in 2011 in conjunction with the Minot flood. While the Minot center was open, it issued 3,879 identification badges and registered and licensed 449 contractors, along with 23 individuals being arrested on outstanding warrants.

The one-stop licensing center is in the state emergency plan and I have attached a sampling of the information related to it.

I distinctly remember when the agencies met in response to the 1997 flood. We were made aware of one state that had completely negated any registration and licensing requirements in response to a hurricane. It caused a "disaster" on top of the disaster with lingering negative effects for an extended period.

That has not been the case in North Dakota. As other agencies have done and do, the Secretary of State's office will be ready to assist whenever a disaster or emergency should arise.

#2.2

ONE STOP CONTRACTOR LICENSING CENTER PLAN

In the aftermath of a major disaster, it is common for numerous contractors from out-of-state to respond to the needs that are beyond the ability of in-state contractors to address. Therefore, it is important to expedite the licensing and registration of these contractors and others who may not be currently licensed with the applicable state agencies. This is done without an extensive waiver of laws and regulations. It allows the recovery efforts to begin quicker to assist residents, businesses, and governing entities, as well as perhaps reducing recovery related expenses.

To accomplish this, it is helpful to have a one-stop contractor licensing center located in or near where the disaster occurred. Examples would be the 1997 Grand Forks and 2011 Minot flooding disasters where a one-stop center was established in both situations. By locating several agencies in one location, applicants are not first required to travel to Bismarck to obtain the necessary registrations and licenses.

In addition to the direct property damage caused by disasters, there can be a substantial negative impact upon local governments and their citizens because of the actions of unscrupulous individuals. These individuals may cause further damage by defrauding the government and citizens, failing to follow health and safety regulations during reconstruction, or engaging in other harmful activities.

State statutes and rules, and local ordinances can be more easily applied and enforced during a normal situation than they can be during a disaster. After a disaster occurs, the usual governmental regulatory and licensing functions may be more difficult or impossible to perform because of the large volume of work or because the regulatory and licensing infrastructure is no longer in place. Enforcement also becomes a problem during and after disasters. These situations can be alleviated to some extent if state agencies: assist local subdivisions perform their responsibilities; streamline state regulatory processes; and aid in enforcement of the law.

An effective mechanism for assisting local governments and strengthening state enforcement of health and safety laws is to establish an office at the site of the disaster. The services provided by the office will likely include the services of many different state agencies. Which services will actually be provided will depend upon the primary goals of the office. Generally, those goals will be to protect life and property and speed the recovery from the disaster. Although each situation will have to be independently evaluated to determine exactly which services and agencies would be best suited to a particular disaster, the equipment and infrastructure needs to establish an administrative office should be relatively the same.

Agencies involved: Involvement of a particular agency will depend upon the type of disaster. These agencies may include, but are not limited to, Job Service North Dakota, Office of Attorney General, Office of State Tax Commissioner, Secretary of State's Office, and the North Dakota Workforce Safety & Insurance. In addition to agencies with pertinent regulatory and licensing responsibilities, involvement of the Department of

2-3

Emergency Services, Information Technology Department and the North Dakota National Guard may be critical to achieving these objectives by providing additional support services. The Division of Emergency Management has responsibility for conducting an organizational meeting of participating agencies. However, representatives of these agencies are asked to coordinate with the Division's Emergency Operations Center staff at (701) 328-8100 to determine the necessity for organizing a One Stop Contractor Licensing Center.

Location: Given local Guard members' familiarity with their areas, the North Dakota National Guard will take the lead to coordinate efforts to locate a facility for the One Stop Contractor Licensing Center. The National Guard has also agreed to serve as initial contact for setup of a facility.

Communication: Any set up must provide a means of communication with the "parent" office and other agencies and resources. At a minimum, there should be sufficient capacity to provide both analog and digital lines to service telephones, fax machines, and computers. There should also be a sufficient number of phone lines available for each agency to have at least one computer and telephone line for each person.

Equipment: Equipment will depend upon availability. At a minimum, there should be a telephone and internet capable computer, preferably a laptop, along with a chair and desk (or table) for each person. A fax machine with a large storage capacity, high-speed printers that are compatible with agency computers, and a copier should also be provided.

Supplies: Supplies such as paper, pencils, pens, staples, and paper clips will be necessary. Additionally, each agency will bring the forms necessary to perform their work.

Reliable Power Supply: If the regular source of power for heat, lights and office equipment is unavailable, generators and staff to assure their proper operation will be necessary. Power cords for equipment will also be necessary.

Sanitary Facilities and Sleeping Facilities: A toilet and washbasin with a sanitary supply of water at the office site is necessary. Soap and towels must be provided. This facility must be located in a manner that allows staff, who are located at the site and cannot leave, to access it. Access by persons not working at the site should be restricted.

Facilities for sleeping, which must also be equipped with sanitary facilities, must also be provided or available within a reasonable distance from the office site.

Secured area for valuables, checks and cash: There should be a vault or other secured area for checks and cash.

Personnel: Each agency must determine the number and qualifications of the staff they will be providing. In addition, personnel from the National Guard would be needed to perform security functions and some administrative tasks as necessary.

2.4

DUTIES OF AGENCIES:**Department of Emergency Services**

- Conduct an organizational meeting with participating agencies.
- Coordinate requests for assistance from One Stop Contractor Licensing Center agencies.

Information Technology Department

- Provide computer support and network services.

Job Service North Dakota

- Assure all employers are covered by unemployment insurance.
- Serve as a clearinghouse for construction projects and bid information.
- Serve as a labor exchange service that refers job seekers to employers.
- Provide certification services on site if facilities at the location have sufficient capacity

North Dakota National Guard

- Coordinate efforts to locate a facility for the One Stop Contractor Licensing Center.
- Provide an initial contact for facility setup work.
- Provide security force for personal safety of staff, as coordinated through the National Guard's Military Support to Civilian Authorities (MSCA) J's Office.
- Provide identification card equipment, as coordinated through the MSCA Office.

Office of the Attorney General

- Licensing for transient merchants.
- Assist other agencies with legal issues on site.
- Provide access to law enforcement resources, including state radio.
- Provide some measure of personal security to staff.

Office of State Tax Commissioner

The Office of State Tax Commissioner participated in the One-Stop Contractor shop in an effort to educate contractors of their responsibilities for collecting and remitting the appropriate taxes. The department registered 172 taxpayers, issued 149 sales tax accounts and 139 income tax withholding accounts.

- Educate contractors and out-of-state businesses on applicable tax-related laws and filing requirements.
- Register taxpayers for sales and use tax
- Register taxpayers for income tax withholding.

Secretary of State

2.5

- Determine if a contractor's license is required.
- Licensing for contractors.
- Registration of business and business names.
- Registration and Licensing of non-profit organizations.

North Dakota Workforce Safety & Insurance**Essential Full Response Duties**

- Determine an employer/contractor's compliance requirements for workers' compensation insurance coverage in North Dakota.
- Register new employers/contractor's requiring coverage, calculate premium due and obtain payment to ensure good standing status.
- Determine status of insured employer accounts and collect premium, if necessary, to ensure good standing status.
- Register employer/contractor's not requiring coverage and secure verification of non-employment and ensure good standing status.

Partial Response

- Registration materials will be provided ahead of time to the key party. All above activity can be completed online at www.workforcesafety.com or by phone at: Toll free 800-777-5033, Fax 701-328-3750, Policyholder Services Department 701-328-3800 or by mail at 1600 E Century Avenue, Suite 1, Bismarck, ND 58506-5585.

Attachment R-1 outlines needed supplies for the One Stop Contractor Licensing Center and agencies' responsibilities for providing supplies.

2.6

July 7, 2011

MINOT ONE STOP CONTRACTOR LICENSING CENTER

BISMARCK – At a joint news conference held earlier today in Minot, Governor Jack Dalrymple, Attorney General Wayne Stenehjem and Tax Commissioner Cory Fong announced that a multi-agency “one stop” contractor licensing center will open in Minot on Monday July 11, 2011. The center will be open Monday through Friday from 9:00 a.m. to 5:00 p.m. and is located in the Job Service building at 3416 North Broadway, Minot.

“This one-stop center will be a very effective way to prevent fraudulent contractors from taking advantage of Minot residents, but at the same time it will expedite the process of licensing for reputable contractors who are needed in Minot,” Dalrymple said.

“Contractors and clean-up related business will be critical to ensuring an efficient and orderly recovery effort in Minot and the surrounding communities impacted by Souris River flooding,” said Tax Commissioner Cory Fong. “And, it is important that they are meeting the requirements of North Dakota law, which means they have the appropriate licenses and permits in order to work in the state, including having a sales tax permit and are registered for withholding if they have employees.”

All contractors and their employees are required to be licensed by the Secretary of State. Contractors who are not permanently located in Minot also must post a bond and obtain a transient merchant’s license issued by the Attorney General’s office. Employees from both state agencies will be staffing the One Stop center with employees from Job Service North Dakota, Workforce Safety, the Tax Commissioner’s office and the City of Minot. The One Stop center will enable contractors to quickly complete the required state licensing and registration procedures.

Agents from the Bureau of Criminal Investigation will conduct a warrants and registered sex offender search on all applicants and any illegal aliens will be turned over to federal authorities. All individuals will be issued a One Stop Center Photo Identification card so that home and business owners can easily determine that both the company and the individual employee are properly licensed and bonded with the state. The photo identification also will indicate if the licensee is a registered sex offender.

“Anyone in Minot needing to rebuild or repair flood damaged property should ask to see the photo identification card issued by the One Stop Center before doing business with a contractor. The ID card provides reassurance to the home or business owner that the contractor has complied with state licensing requirements.”

- MORE -

2.1

Attorney General Stenehjem encouraged licensed contractors who operate permanently in Minot to visit the One Stop Center as soon as possible to obtain photo identification cards for their employees. The process will be expedited for licensed contractors with a permanent business address in Minot. Documentation of the current license status will be required.

"Access to flood damaged areas is restricted so contractors who do not have a photo identification card issued by the One Stop center may find it difficult to gain entry into the restricted areas, particularly the residential streets," said Stenehjem. Law enforcement in the restricted areas will be checking all contractors for photo identification cards.

###

ONE STOP- CONTRACTOR LICENSING CENTER SUPPLY/AGENCY CHART

Supplies	Job Service North Dakota	National Guard	Office of Attorney General	Secretary of State's Office	Workforce Safety & Insurance	Office of State Tax Commissioner
Computer	Agency provides as needed		Agency provides laptops as needed.	Agency provides laptops as needed.	Agency provides laptops as needed.	Agency provides laptops as needed
Phone	Up to 2 phone lines supplied by location	Up to 6 personnel	3 phones supplied by location.	2 phones supplied by location.	1 phone supplied by location	1 phone supplied by location
Cellular Phone	Agency staff may bring one cellular phone per staff, if needed		Cellular phones as needed; supplied by agency	Agency provides 1 cellular phone	Agency provides 1 cellular phone	Agency provides cellular phone
Chairs	One per person		One per person	One per person.	One per person.	One per person
Desk or Table	One per person		One per person	One per person	One per person.	One per person
Kitchen Operations		Provide Mobile Kitchen and staff, as necessary				

2.8

ONE STOP SUPPLY CHART

02/2012
PAGE 2 OF 2

Supplies	Job Service North Dakota	National Guard	Office of Attorney General	Secretary of State's Office	Workforce Safety & Insurance	Tax Department
Portable toilets		Supplied by National Guard				
Legal material			Obtain copy of Century Code on disk			
Picture ID camera, Film and Lamination packets		Provided by the National Guard				
Personal Security		Provide Security Force* <i>*With BCI as lead agency for security</i>	Provide BCI Agents			
Fax Machine	Supplied by location or coordinated by all participating agencies					
Printer	Provided by each agency as needed.					
Copier	Supplied by location or coordinated by all participating agencies					
Supplies	Supplied by each agency as their needs require.					
Electric cords	As needed supplied by location or coordinated by participating agencies.					
Forms	Supplied by each agency as their needs require.					
Vault or other secure place for cash	Supplied by the National Guard, location or coordinated by participating agencies.					
Phone lines and data	Supplied by location. These lines must have at least 56K capability and must be able to handle data transmission and connect to the state network. Job Service also requires a router and a hub for its operation.					
Power source	Supplied by the National Guard or location.					

2.9

ONE STOP SUPPLY CHART

02/2012
PAGE 3 OF 2

Supplies	Job Service North Dakota	National Guard	Office of Attorney General	Secretary of State's Office	Workforce Safety & Insurance	Tax Department
Building	Either a permanent structure supplied by location or a mobile structure, such as a command center, or mobile home supplied by the National Guard.					

2.10

2.11

Leveraging Partnerships: North Dakota Disaster Recovery Task Force

This summer, member agencies of the One Stop Contractor Licensing Center logged an average of 10,396 miles and nearly 200 hours traveling for 47 days between Bismarck and Minot to provide public safety and consumer protection for their fellow North Dakotans.

It's an effort Susan Scott, Workforce Safety and Insurance (WSI) Underwriting Supervisor, would gladly undertake again. "We rolled up our sleeves and got busy," said Susan, who worked long hours along with staff from seven state agencies to license 505 contractors and their 4,094 employees. "Many contractors expressed their appreciation of the availability of the one-stop center as opposed to taking the additional time and effort to locate the agencies in North Dakota regarding compliance. Time was of the essence, and they were anxious to get to work and help the citizens of Minot and the surrounding areas."

The commitment of employees like Susan Scott and those staffing the licensing center is the driving energy behind the difference the North Dakota Recovery Task Force is making to restore the quality of flood survivors' lives. The Task Force draws on the expertise of 31 state, six federal and three private partners to achieve its mission of guiding state level efforts, resources and programs to assist individuals, businesses and communities recover from the prolonged, catastrophic flooding that occurred in the Mouse, Missouri Devils Lake, Red River, James and Sheyenne River Basins.

Collaboratively, Task Force members strategize how best to leverage their resources, from establishing the licensing center, securing temporary housing, deferring mortgage payments, guiding removal of more than 54,000 tons of debris, rebuilding flood-damaged infrastructure, conducting educational seminars for flood survivors, and securing low-interest loans for cash-strapped municipalities.

Goals

The N.D. Department of Emergency Services, under the direction of MG David Sprynczynatyk, assembled the Task Force in June 2011; agencies responded in force and established the following goals in support of flood-impacted jurisdictions:

- Ensure coordinated state recovery support for individuals, as well as local and tribal governments, through effective planning, program implementation and policy development.
- Provide assistance to local and tribal governments with their efforts to help affected individuals and businesses by increasing awareness of programs and resources, communicating and coordinating among agencies, and making referrals when appropriate.

- Leverage economic recovery assistance programs designed to help local recovery groups or teams and their communities with their rebuilding efforts.
- Identify ways to protect existing infrastructure against future damages.
- Initiate processes through statutory and regulatory requirements, or other avenues, to ensure future development and protects against potential damage.

Objectives

The Housing Task Force for Disaster Recovery had been meeting since March and was well positioned to assess needs, as were state and federal agencies staffing the State Emergency Operations Center (SEOC) during response. As their first task, the Task Force members established objectives in the areas of Consumer Protection, Environmental Health and Infrastructure, Individual Assistance and Disaster Housing, and Economic Recovery.

Agencies agreed to the following objectives:

- Protect consumers by ensuring proper licensure of contractors and educating citizens about potential fraudulent practices.
- Assist local and tribal governments to remediate environmental hazards and ensure safe restoration of infrastructure needed for individuals to live healthy and safely.
- Secure adequate and safe housing for displaced citizens.
- Implement programs to ensure the wellbeing of citizens and economic viability of their communities.
- Develop a communications plan/public information strategy to identify how the task force will share critical information with agencies, organizations, business, and the public.

Organization

The Task Force includes the following committees and work groups:

Task Force Coordinators:

- *MG Murray Sagsveen, State Flood Recovery Coordinator, Office of the Adjutant General*
- *Kathleen Donahue, Deputy Chief for Recovery and Mitigation, NDDES*

Administrative Support:

Col Mike Wobbema, State Flood Recovery Officer, Office of the Adjutant General
Cherié Merrick, Recovery Specialist, NDDES

Federal Emergency Management Agency (FEMA) Liaisons:

- *Dolph Diemont, Federal Disaster Recovery Coordinator*
- *Timothy Gelston, Region VIII ESF #14 Coordinator*

Public Information Work Group – All Committees:

- *Cecily Fong, Public Information Officer, NDDES*
- *Clare Carlson, Deputy Director, WSI*

Consumer Protection Committee Chairs:

- *Al Jaeger, Secretary of State*
- *Parrell Grossman, Assistant Attorney General, Director of Consumer Protection and Antitrust Division (CPAT), N.D. Attorney General's Office*

Environmental Health and Infrastructure (EH&I) Committee Co-Chairs:

- *David Glatt, Chief, Environmental Health Section, ND. Department of Health (NDDoH)*
- *Gary Haberstroh, Environmental Engineer, NDDoH*

Debris Management Work Group Leaders:

- *Steve Tillotson, Assistant Director of the Waste Management Division, NDDoH*
- *Scott Radig, Director, Waste Management Division, NDDoH*

Individual Assistance and Disaster Housing Committee Chair:

- *Mike Anderson, Executive Director, N.D. Housing Finance Agency*

Economic Recovery Committee Chairs:

- *Bryan Klipfel, Director, WSI*
- *Robert Entringer, Commissioner, N.D. Department of Financial Institutions*

Banking and Finance Work Group Leader:

- *Eric Hardmeyer, President and Chief Executive Officer (CEO), Bank of North Dakota (BND)*

Financial Unmet Needs Work Group Leaders:

- *Robert Entringer, Commissioner, N.D. Department of Financial Institutions*
- *Maren Daley, Director, Job Service North Dakota*
- *Bob Humann, Senior Vice President and Chief Lending Officer, BND*

The section, *Task Force Priorities Provide the Foundation for State Level Support*, provide a comprehensive overview of short- and long-term priorities associated with these objectives.

2.14

These Quotes from the 2011 Flood Report summarize the success of the One-Stop Contractor Licensing Center:

Al Jaeger, Secretary of State:

"The Secretary of State's office received several unsolicited letters and e-mail messages from out-of-state contractors. It was an affirmation of the excellent work done by the staff located at the one stop licensing center."

Here is an excerpt from one of the letters, which is representative of the comments received.

'We were pleasantly surprised at how organized the process and the expedient manner in which we were treated. All of the staff were professional, very courteous, and willing to assist with our questions and concerns. To say the least, we were impressed at the overall organized structure which allowed us to quickly complete all paperwork and received our contractor ID badges. Needless to say, we were expecting a long tedious process but the opposite was true! I must express again to you "Thank You" for the warm welcome and professional treatment to me and my partner as we enjoyed meeting all of you!'

Kathleen Donahue

Individual Assistance, Mitigation and Recovery Planning
Deputy Recovery Chief, N.D. Department of Emergency Services
Division of Homeland Security

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Testimony of
Kevin G. Nelson, PE, PLS
In opposition to SB 2095

#3

Chairman Cook, and esteemed members of the Senate Finance and Taxation Committee:

Thank you for this opportunity to present my testimony to you today. My name is Kevin G. Nelson from Bismarck. I stand before you today in opposition to SB 2095 and request your action to be a "Do Not Pass" recommendation. I am a licensed Professional Engineer and a licensed Professional Land Surveyor. I am the chairman of the North Dakota Board of Registration for Professional Engineers and Land Surveyors and I am a lifelong citizen this great state. Please allow me to briefly explain my position on this bill.

I am requesting a do not pass recommendation for the following reasons:

- Emergency Practice without a license is already provided for in NDCC 43-51-04
 - This bill would conflict with that current law.
- The Board of Registration for Professional Engineers and Land Surveyors (the Board of Registration) is charged with the duty of protecting the health, safety, and welfare of the citizens of North Dakota.
 - The Board of Registration executes this duty through a systematic process of vetting the education, experience, and qualifications of individuals and organizations that desire to offer engineering and land surveying services in North Dakota to ensure they meet the minimum standards to practice within the borders of our state.
 - This bill would circumvent that process, thereby allowing underqualified or unqualified individuals and businesses to provide inadequate services, thereby endangering the lives of our citizens.
- The Board of Registration has already promulgated rules in NDAC 28-02.1-11 regarding practice without licensure as it pertains to engineering and land surveying.
 - This bill would be in conflict with those rules.
- SB 2095 defines "critical infrastructure" as ..."an essential component of a road or bridge; communications network; electric generation, transmission, or distribution system; oil or gas storage, transmission, or distribution system; drainage, sewage, or flood protection system."
 - The above items are at the very heart of our towns and roads. Members of the public use these things on a daily basis and all of these items have the potential to generate significant harm to the public if they are not designed, analyzed, maintained, and repaired properly.
 - Furthermore, failure of any of these systems creates a wide-spread safety issue--the number of impacted citizens is significant and the effects of failure can be catastrophic.
 - The potential for significant environmental contamination from these systems also poses a serious public safety issue and could contaminate our precious resources of fresh surface water and groundwater.

#3.7

Testimony of Kevin G. Nelson
In Opposition to SB 2095

14 January 2015

- SB 2095 would allow businesses and individuals, in a state of emergency, to perform services that affect the very infrastructure of North Dakota society without any provision to verify that they are qualified to do so.
- North Dakota has suffered significant disasters as of late and survived without such an open door statute that allows anyone to step in.
- During a state of emergency, people, including government officials, are at their most vulnerable.
 - We have all seen the unlicensed businesses that come to an emergency area, perform shoddy work, and then disappear--leaving citizens in a more dangerous position than before the emergency and with significantly less money.
- Utilizing properly licensed professional engineers and land surveyors on these types of infrastructure projects also creates a requirement that the project have oversight during the construction phase to make sure the designs and specifications are implemented properly. If the requirement for licensed professionals is eliminated, the construction oversight safety net is also eliminated.
- The North Dakota Century Code is full of statutes that require licensure of design professionals on public works projects. These statutes were enacted by this legislative body with the specific intent to protect the public. Why would the legislature enact a law that eliminates the licensure requirement of design professionals in a situation where licenses are actually needed the most?

In summary, this bill conflicts with existing law, conflicts with rules designed to protect the health, safety and welfare of the citizens of North Dakota, and creates potential risks that could endanger the lives of the people of this great state.

Thank you for this opportunity to present my testimony. Please vote to give SB 2095 a "Do Not Pass" recommendation.

Sincerely,

Kevin G. Nelson, PE, PLS

PROPOSED AMENDMENTS TO SENATE BILL NO. 2095

#A
1-14-15

Page 1, line 12, replace "real and personal property that constitutes an essential" with "any system and asset, whether physical or virtual, so vital to the state that the incapacity or destruction of such system and asset would have a debilitating impact on public health or safety, economic, and physical security of the state or region."

Page 1, remove lines 13 through 16

Page 1, line 22, after "means" insert "reinforcement."

Page 1, line 23, after "that" insert "is under threat or"

Page 1, line 23, remove ", or is under threat of being"

Renumber accordingly

#1
SB 2095

Prepared for the
Senate Finance and
Taxation Committee
January 28, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2095

Page 2, line 4, after "entity" insert ", including an out-of-state business affiliated solely through common ownership with a business registered in this state,"

Page 2, line 4, replace "except for disaster or emergency" with "prior to the disaster remediation period"

Page 2, line 5, remove "remediation work,"

Page 2, remove line 6

Page 2, line 7, remove "business registered"

Page 2, line 7, replace the second "in" with "at the request of a requesting agency."

Page 2, remove lines 8 and 9

Page 2, after line 13 insert:

"8. "Requesting entity" means an officer or agency of this state, a political subdivision, or a business registered in this state."

Page 2, line 17, replace "may" with "must"

Page 2, line 17, replace "level of" with "business"

Page 2, line 17, remove "that"

Page 2, remove line 18

Page 2, line 19, remove "taxes, or"

Page 2, line 22, replace ", and sales and use tax equipment used or brought" with "if the out-of-state business or out-of-state employee has a valid license to perform that business or occupation from the principal place of business or employment. The out-of-state business or out-of-state employee shall register with the secretary of state and pay applicable registration or other fees imposed by that agency."

#1.2
SJR2095
1-28-15

Page 2, line 23, before "into" insert:

"2. During the disaster response period, the out-of-state business or out-of-state employee shall not be required to file or pay any state or local tax administered by the tax commissioner. The out-of-state business or out-of-state employee shall not be required to pay any sales and use tax on equipment used or brought"

Page 2, line 23, remove "and"

Page 2, line 24, replace "subsequently" with "if the equipment is"

Page 2, line 24, after "state" insert "within a reasonable period of time after the disaster response period"

Page 2, line 24, before "For" insert:

"3."

Page 2, line 27, replace "such" with "the"

Page 2, line 27, after "tax" insert a comma

Page 2, line 29, replace "revenue, or receipts, the performance by an out-of-state business of any work under this chapter may not be sourced to or otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state." with "the apportionment factors attributable to the performance by an out-of-state business of any work under this chapter may not be sourced to this state by the out-of-state business or any member of its affiliated group."

Page 3, line 3, replace "2." with "4."

Page 3, line 3, remove "residency or"

Page 3, line 4, replace "the" with "this"

Page 3, line 5, replace the first "and" with "or"

Page 3, line 5, replace "subjected" with "subject"

Page 3, line 5, after the third "to" insert "income"

Page 3, line 5, after "withholding" insert a comma

Page 3, line 8, replace "3" with "5"

#1.3
SB2095
1-28-15

Page 3, line 9, replace "3." with "5."

Page 3, line 10, after "services" insert "purchased,"

Page 3, line 13, replace ", unless such taxes are" with a period

Page 3, remove line 14

Page 3, line 15, replace "4." with "6."

Page 3, line 15, replace "Any" with "After the disaster response period, any"

Page 3, line 16, replace "becomes subject to the state's normal standards for" with "is"

Page 3, remove "establishing presence, residency, or doing business in this state and becomes"

Page 3, line 21, replace "Upon request, an" with "An"

Page 3, line 21, after "state" insert "for disaster or emergency remediation work"

Page 3, line 22, after "commissioner" insert ", workforce safety and insurance, job service North Dakota,"

Page 3, line 23, replace "purposes" with "the sole purpose"

Page 3, line 25, after "entry" insert "into this state"

Page 3, line 25, after "information" insert ", including the out-of-state business's tax matters person"

Page 3, line 28, after "information" insert ", including the out-of-state business's tax matters person"

Page 4, line 1, replace "The tax commissioner and secretary of state" with "Each state agency"

Page 4, line 1, remove "adopt rules and"

Page 4, line 1, after "develop" insert "procedures"

Page 4, line 2, after "procedures" insert a comma

Page 4, line 3, replace "an annual" with "a"

#1.4
SP-2075
1-28-15

Page 4, line 3, after "designations" insert "made by an out-of-state business or out-of-state employee"

Renumber accordingly

#2
1-28-15

Introduced by

Senators Cook, Flakoll, Dotzenrod

Representatives Dockter, Headland, Silbernagel

1 A BILL for an Act to create and enact chapter 37-17.5 of the North Dakota Century Code,
2 relating to facilitating entry of an out-of-state business to perform disaster or emergency
3 remediation work in this state and to provide a limited exemption for that purpose from state and
4 local taxes and fees, licensing or registration requirements, and other requirements during the
5 time in this state employed in disaster or emergency remediation work; and to declare an
6 emergency.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** Chapter 37-17.5 of the North Dakota Century Code is created and enacted
9 as follows:

10 **37-17.5-01. Definitions.**

11 As used in this chapter:

- 12 1. "Critical infrastructure" means real and personal property that constitutes an
13 essential component of a road or bridge; communications network; electric
14 generation, transmission, or distribution system; oil or gas storage, transmission,
15 or distribution system; or water storage, transmission, treatment, distribution,
16 drainage, sewerage, or flood protection system.
- 17 2. "Declared state disaster or emergency" means a disaster or emergency event for
18 which a:
- 19 a. Disaster or emergency has been declared by the governor; or
20 b. Presidential declaration of a federal major disaster or emergency has
21 been issued.
- 22 3. "Disaster or emergency remediation work" means repair or replacement of critical
23 infrastructure that has been, or is under threat of being damaged, impaired, or
24 destroyed by the declared state disaster or emergency.

2.2
SB2095
1-28-15

- 1 4. "Disaster response period" means a period that begins ten days prior to, and
2 ends sixty calendar days after, the declared state disaster or emergency and
3 includes any extension of that time provided by executive order of the governor.
- 4 5. "Out-of-state business" means a business entity, including an out-of-state
5 business affiliated solely through common ownership with a business registered
6 in this state, that, ~~except for disaster or emergency~~ prior to the disaster
7 remediation period ~~remediation work~~, has no business presence or nexus in this
8 state and which is ~~requested by an officer or agency of this state, a political~~
9 ~~subdivision of this state, or a business registered~~ in this state to perform disaster
10 or emergency remediation work ~~in at the request of a requesting agency this~~
11 ~~state, including an out-of-state business entity affiliated solely through common~~
12 ~~ownership with a business registered in this state.~~
- 13 6. "Out-of-state employee" means an employee who does not work in the state,
14 except for disaster or emergency related work during the disaster response
15 period.
- 16 7. "Registered business" means a business entity registered to do business in this
17 state prior to the declared state disaster or emergency.
- 18 8. "Requesting entity" means an officer or agency of this state, a political
19 subdivision, or a business registered in this state.

20 **37-17.5-02. Business and employee status during and after disaster response**
21 **period.**

- 22 1. An out-of-state business that conducts operations within this state for purposes
23 of performing disaster or emergency remediation work or services during the
24 disaster response period ~~may~~ must not be considered to have established a ~~level~~
25 ~~of business~~ presence ~~that would require that business to register to do business~~
26 ~~or file or remit state or local taxes, or~~ that would require that business or its out-
27 of-state employees to be subject to any state or local business licensing or
28 registration requirements or state and local taxes or fees including
29 unemployment insurance, workers' compensation, state or local occupational
30 licensing fees, ~~and sales and use tax on equipment used or brought~~ if the out-of-
31 state business or out-of-state employee has a valid license to perform that
32 business or occupation from the principal place of business or employment. The
33 out-of-state business or out-of-state-employee shall register with the secretary of
34 state and pay applicable registration or other fees imposed by that agency.

23
SPB 2095
1-28-15

- 1 2. During the disaster response period, the out-of-state business or out-of-state
2 employee shall not be required to file or pay any state or local tax administered
3 by the tax commissioner. The out-of-state business or out-of-state employee
4 shall not be required to pay any sales and use tax on equipment used or brought
5 into the state temporarily for use during the disaster response period and
6 subsequently if the equipment is removed from the state within a reasonable
7 period of time after the disaster response period.
- 8 3. For purposes of any state or local tax on or measured by, in whole or in part, net
9 or gross income or receipts, all activity of the out of-state business which is
10 conducted in this state under this chapter must be disregarded with respect to
11 any filing requirements for such the tax, including the filing required for a unitary
12 or combined group of which the out-of-state business may be a part. For the
13 purpose of apportioning income, revenue, or receipts, the performance by an out-
14 of-state business of any work under this chapter may not be sourced to or
15 otherwise impact or increase the amount of income, revenue, or receipts
16 apportioned to this state. the apportionment factors attributable to the
17 performance by an out-of-state business of any work under this chapter may not
18 be sourced to this state by the out-of-state business or any member of its
19 affiliated group.
- 20 2.4. An out-of-state employee may not be considered to have established residency
21 or a presence in the this state which would require that individual or that
22 individual's employer to file and or pay income taxes or to be subjected subject to
23 income tax withholding, or to file and pay any other state or local tax or fee during
24 the disaster response period. This includes any related state or local employer
25 withholding and remittance obligations, but does not include any transaction
26 taxes or fees as described in subsection 35.
- 27 3.5. Out-of-state businesses and out-of-state employees are subject to fuels taxes
28 and state or local sales or use taxes on materials or services purchased,
29 consumed or used in this state which are subject to sales or use taxes, hotel
30 taxes, or car rental taxes or fees which the out-of-state affiliated business or out-
31 of-state employee purchases for use or consumption in the state during the
32 disaster response period, unless such taxes are otherwise exempted during a
33 disaster response period.

#2-4
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1-28-15

1 4.6. ~~Any~~ After the disaster response period, any out-of-state business or out-of-state
2 employee that remains in the state after the disaster response period becomes
3 subject to the state's normal standards for ~~is establishing presence, residency, or~~
4 doing business in this state and becomes subject to any business or employee
5 registration and tax requirements that apply.

6 **37-17.5-03. Notification by out-of-state business during and after disaster**
7 **response period.**

- 8 1. ~~Upon request, an~~ An out-of-state business that enters the state for disaster or
9 emergency remediation work shall provide to the tax commissioner, workforce
10 safety and insurance, job service North Dakota, and secretary of state a
11 statement that the business is in the state for ~~purposes~~ the sole purpose of
12 responding to the disaster or emergency. The statement must include the
13 business name, state of domicile, principal business address, federal tax
14 identification number, date of entry into this state, and contact information,
15 including the out-of-state business's tax matters person.
- 16 2. Upon request, a registered business in this state shall provide the information
17 required in subsection 1 for any affiliate that enters this state which is an out-of-
18 state business. The notification must include contact information, including the
19 out-of-state business's tax matters person, for the registered business in the
20 state.
- 21 3. ~~The tax commissioner and secretary of state~~ Each state agency shall adopt rules
22 and develop procedures and issue forms or online processes to carry out these
23 administrative procedures, and maintain and make available ~~an annual~~ a record
24 of any designations made by an out-of-state business or out-of-state employee
25 pursuant to this chapter.

26 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Prepared for the
Senate Finance and
Taxation Committee
February 10, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2095

1 Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create
2 and enact chapter 37-17.5 of the North Dakota Century Code, relating to
3 facilitating entry of an out-of-state business to perform disaster or emergency
4 remediation work in this state, on critical electrical and telecommunication
5 transmission infrastructure, and to provide a limited exemption for that purpose
6 from state and local taxes and fees, licensing, and other requirements during the
7 time in this state employed in disaster or emergency remediation work; and to
8 declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

9 **SECTION 1.** Chapter 37-17.5 of the North Dakota Century Code is
10 created and enacted as follows:

11 **37-17.5-01. Definitions.**

12 As used in this chapter:

- 13 1. "Critical electrical and telecommunication transmission infrastructure"
14 means real and personal electrical and telecommunication transmission
15 property so vital to the state that the incapacity or destruction of that
16 electrical transmission or distribution system or telecommunications
17 transmission system would have a debilitating impact on public health or
18 safety, economic, and physical security of the state or region.
- 19 2. "Declared state disaster or emergency" means a disaster or emergency
20 event for which a:
 - 21 a. Disaster or emergency has been declared by the governor; or
 - 22 b. Presidential declaration of a federal major disaster or emergency
23 has been issued.

- 1 3. "Disaster or emergency remediation work" means repair or replacement of
2 critical electrical and telecommunication transmission infrastructure that
3 has been, or is under threat of being damaged, impaired, or destroyed by
4 the declared state disaster or emergency.
- 5 4. "Disaster response period" means a period that begins ten days prior to,
6 and ends sixty calendar days after, the declared state disaster or
7 emergency and includes any extension of that time provided by executive
8 order of the governor.
- 9 5. "Out-of-state business" means a business entity, including an out-of-state
10 business affiliated solely through common ownership with a business
11 registered in this state that, prior to the disaster remediation period, has no
12 business presence in this state and which is in this state to perform
13 disaster or emergency remediation work at the request of a requesting
14 entity.
- 15 6. "Out-of-state employee" means an employee employed by an out-of-state
16 business.
- 17 7. "Registered business" means a business entity registered to do business
18 in this state prior to the declared state disaster or emergency.
- 19 8. "Requesting entity" means an officer or agency of this state, a political
20 subdivision, or a business registered in this state.
- 21 9. "State agency" means job service North Dakota, secretary of state, the tax
22 commissioner, or workforce safety and insurance.

23 **37-17.5-02. Business and employee status during and after disaster**
24 **response period.**

- 25 1. An out-of-state business that conducts operations within this state for
26 purposes of performing disaster or emergency remediation work or
27 services during the disaster response period must not be considered to
28 have established a business presence that would require that business or
29 its out-of-state employees to be subject to any state and local taxes or
30 fees including unemployment insurance, workers' compensation, or taxes
31 administered by the tax commissioner. The business or out-of-state

1 employee shall have a valid license to perform that business or occupation
2 from the principal place of business or employment.

3 2. During the disaster response period, the out-of-state business or out-of-
4 state employee shall not be required to file or pay any state or local tax
5 administered by a state agency. The out-of-state business or out-of-state
6 employee shall not be required to pay any sales and use tax on equipment
7 used or brought into the state temporarily for use during the disaster
8 response period if the equipment is removed from the state within a
9 reasonable period of time after the disaster response period.

10 3. For purposes of any state or local tax on or measured by, in whole or in
11 part, net or gross income or receipts, all activity of the out of-state
12 business which is conducted in this state under this chapter must be
13 disregarded with respect to any filing requirements for a tax, including the
14 income tax return required for a unitary or combined group of which the
15 out-of-state business may be a part. For the purpose of apportioning
16 income, the apportionment factors attributable to the performance by an
17 out-of-state business of any work under this chapter may not be sourced
18 to this state by the out-of-state business or any member of its affiliated
19 group.

20 4. An out-of-state employee may not be considered to have established a
21 presence in this state which would require that individual or that
22 individual's employer to file or pay income taxes or to be subject to income
23 tax withholding, or to file and pay any other state or local tax or fee during
24 the disaster response period. This includes any tax or fee, imposed by a
25 state agency, but does not include any transaction taxes or fees as
26 described in subsection 5.

27 5. Out-of-state businesses and out-of-state employees are subject to fuel
28 taxes and state or local sales or use taxes on materials or services
29 purchased, consumed or used in this state which are subject to sales or
30 use taxes, hotel taxes, or car rental taxes or fees which the out-of-state

1 affiliated business or out-of-state employee purchases for use or
2 consumption in the state during the disaster response period.

3 6. After the disaster response period, any out-of-state business or out-of-
4 state employee that remains in the state after the disaster response period
5 is subject to any business or employee registration and tax requirements
6 that apply.

7 **37-17.5-03. Notification by out-of-state business during and after disaster**
8 **response period.**

9 1. An out-of-state business that enters the state for disaster or emergency
10 remediation work shall provide to the state agencies, a statement that the
11 business is in the state for the sole purpose of responding to the disaster
12 or emergency. The statement must include the business name, or out-of-
13 state employee's name, state of domicile, principal business address,
14 federal tax identification number, date of entry into this state, and contact
15 information, including the out-of-state business's tax matters person. An
16 out-of-state business must provide proof that its workers have worker's
17 compensation insurance to workforce safety and insurance.

18 2. A registered business in this state shall provide the information required in
19 subsection 1 for any out-of-state affiliate that enters this state.

20 3. Each state agency shall develop procedures and issue forms or online
21 processes to carry out these administrative procedures, and maintain and
22 make available a record of any designations made by an out-of-state
23 business or out-of-state employee pursuant to this chapter.

24 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.