

## MEMORANDUM

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OKLAHOMA TAX COMMISSION  
TAX POLICY AND RESEARCH

DATE: February 20, 2015

SUBJECT: SB 499 – Facilitating Business Rapid Response

TO: Rick Miller, Director

FROM: Joe Gappa, Deputy Director; Morgan Langford, Tax Policy Analyst

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The Committee Substitute for SB 499 includes the property and equipment owned or used by a telecommunications provider and a cable operator in the definition of “Critical Infrastructure” as used in the proposed measure.

SB 499 creates the Facilitating Business Rapid Response to State Declared Disasters Act of 2015. The bill proposes that out-of-state businesses that come to Oklahoma to help aid in disaster relief will not be considered to have established a level of presence to register, file, or remit state or local taxes, nor would they be subject to state licensing and registration requirements during the disaster response period.

Currently, out-of-state businesses must register and, in some instances, post a surety bond with the Tax Commission. In addition, out-of-state businesses must pay any applicable fees for permits and licenses, and remit any withholding, use or any other applicable tax. Also, every nonresident with gross income from Oklahoma sources of \$1,000 or more is required to file an Oklahoma income tax return.

Under the proposed measure, the disaster response period is defined as a period that begins ten days prior to a disaster being declared by the Governor’s Proclamation, the President’s Declaration or designation by any other authorized state official and lasts sixty days after the declared state disaster. No out-of-state employee would be deemed to have established residency during the disaster response period, and therefore, an out-of-state employee would not be subject to Oklahoma income tax, nor would the out-of-state business be subject to withholding tax. However, the out-of-state business and employee are subject to transaction taxes, such as fuel and sales tax. If the out-of-state business or employee remains in Oklahoma after the disaster response period has ended, the out-of-state business and employee would be subject to all applicable taxes, licenses and any registration requirements. Upon the request of the Tax Commission, the out-of-state business and employee would be required to show a statement that they are in Oklahoma responding to the disaster or emergency.

Based upon the fact that the property and equipment owned and used by these providers were assumed to meet the definition of critical infrastructure in the Introduced Version, the language set forth in the proposed committee substitute would not affect the estimated minimal revenue impact issued for SB 499 (Introduced).