

1 **SENATE FLOOR VERSION**

2 February 27, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1167

5 By: Pemberton

6 An Act relating to the Oklahoma Employment Security
7 Commission; amending 40 O.S. 2011, Section 4-508, as
8 last amended by Section 10, Chapter 251, O.S.L. 2019
9 (40 O.S. Supp. 2019, Section 4-508), which relates to
10 release of confidential information; authorizing
11 certain entities to receive certain information for
12 certain purpose; providing an effective date; **and**
13 **declaring an emergency.**

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 40 O.S. 2011, Section 4-508, as
16 last amended by Section 10, Chapter 251, O.S.L. 2019 (40 O.S. Supp.
17 2019, Section 4-508), is amended to read as follows:

18 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -
19 DISCLOSURE.

20 A. Except as otherwise provided by law, information obtained
21 from any employing unit or individual pursuant to the administration
22 of the Employment Security Act of 1980, any workforce system program
23 administered or monitored by the Oklahoma Employment Security
24 Commission, and determinations as to the benefit rights of any
individual shall be kept confidential and shall not be disclosed or
be open to public inspection in any manner revealing the

1 individual's or employing unit's identity. Any claimant or
2 employer, or agent of either as authorized in writing, shall be
3 supplied with information from the records of the Oklahoma
4 Employment Security Commission, to the extent necessary for the
5 proper presentation of the claim or complaint in any proceeding
6 under the Employment Security Act of 1980, with respect thereto.

7 B. Upon receipt of written request by any employer who
8 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
9 Commission or its designated representative may release to that
10 employer information regarding weekly benefit amounts paid its
11 workers during a specified temporary layoff period, provided the
12 Supplemental Unemployment Benefit (SUB) Plan requires benefit
13 payment information before Supplemental Unemployment Benefits can be
14 paid to the workers. Any information disclosed under this provision
15 shall be utilized solely for the purpose outlined herein and shall
16 be held strictly confidential by the employer.

17 C. The provisions of this section shall not prevent the
18 Commission from disclosing the following information and no
19 liability whatsoever, civil or criminal, shall attach to any member
20 of the Commission or any employee thereof for any error or omission
21 in the disclosure of this information:

22 1. The delivery to taxpayer or claimant a copy of any report or
23 other paper filed by the taxpayer or claimant pursuant to the
24 Employment Security Act of 1980;

1 2. The disclosure of information to any person for a purpose as
2 authorized by the taxpayer or claimant pursuant to a waiver of
3 confidentiality. The waiver shall be in writing and shall be
4 notarized;

5 3. The Oklahoma Department of Commerce may have access to data
6 obtained pursuant to the Employment Security Act of 1980 pursuant to
7 rules promulgated by the Commission. The information obtained shall
8 be held confidential by the Department and any of its agents and
9 shall not be disclosed or be open to public inspection. The
10 Oklahoma Department of Commerce, however, may release aggregated
11 data, either by industry or county, provided that the aggregation
12 meets disclosure requirements of the Commission;

13 4. The publication of statistics so classified as to prevent
14 the identification of a particular report and the items thereof;

15 5. The disclosing of information or evidence to the Attorney
16 General or any district attorney when the information or evidence is
17 to be used by the officials or other parties to the proceedings to
18 prosecute or defend allegations of violations of the Employment
19 Security Act of 1980. The information disclosed to the Attorney
20 General or any district attorney shall be kept confidential by them
21 and not be disclosed except when presented to a court in a
22 prosecution of a violation of Section 1-101 et seq. of this title,
23 and a violation by the Attorney General or district attorney by
24 otherwise releasing the information shall be a felony;

1 6. The furnishing, at the discretion of the Commission, of any
2 information disclosed by the records or files to any official person
3 or body of this state, any other state or of the United States who
4 is concerned with the administration of assessment of any similar
5 tax in this state, any other state or the United States;

6 7. The furnishing of information to other state agencies for
7 the limited purpose of aiding in the collection of debts owed by
8 individuals to the requesting agencies or the Oklahoma Employment
9 Security Commission;

10 8. The release to employees of the Department of Transportation
11 or any Metropolitan Planning Organization as defined in 23 U.S.C.,
12 Section 134 and 49 U.S.C., Section 5303 of information required for
13 use in federally mandated regional transportation planning, which is
14 performed as a part of its official duties;

15 9. The release to employees of the State Treasurer's office of
16 information required to verify or evaluate the effectiveness of the
17 Oklahoma Small Business Linked Deposit Program on job creation;

18 10. The release to employees of the Attorney General, the
19 Department of Labor, the Workers' Compensation Commission, and the
20 Insurance Department for use in investigation of workers'
21 compensation fraud;

22 11. The release to employees of any Oklahoma state, Oklahoma
23 county, Oklahoma municipal or Oklahoma tribal law enforcement agency
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1 for use in criminal investigations and the location of missing
2 persons or fugitives from justice;

3 12. The release to employees of the Center of International
4 Trade, Oklahoma State University, of information required for the
5 development of International Trade for employers doing business in
6 the State of Oklahoma;

7 13. The release to employees of the Oklahoma State Regents for
8 Higher Education of information required for use in the default
9 prevention efforts and/or collection of defaulted student loans
10 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
11 information disclosed under this provision shall be utilized solely
12 for the purpose outlined herein and shall be held strictly
13 confidential by the Oklahoma State Regents for Higher Education;

14 14. The release to employees of the Oklahoma Department of
15 Career and Technology Education, the Oklahoma State Regents of
16 Higher Education, the Center for Economic and Management Research of
17 the University of Oklahoma, the Center for Economic and Business
18 Development at Southwestern Oklahoma State University, or a center
19 of economic and business research or development at a comprehensive
20 or regional higher education institution within The Oklahoma State
21 System of Higher Education of information required to identify
22 economic trends. The information obtained shall be kept
23 confidential by the Oklahoma Department of Career and Technology
24 Education, the Oklahoma State Regents of Higher Education, and the

1 higher education institution and shall not be disclosed or be open
2 to public inspection. The Oklahoma Department of Career and
3 Technology Education, the Oklahoma State Regents of Higher
4 Education, and the higher education institution may release
5 aggregated data, provided that the aggregation meets disclosure
6 requirements of the Commission;

7 15. The release to employees of the Office of Management and
8 Enterprise Services of information required to identify economic
9 trends. The information obtained shall be kept confidential by the
10 Office of Management and Enterprise Services and shall not be
11 disclosed or be open to public inspection. The Office of Management
12 and Enterprise Services may release aggregate data, provided that
13 the aggregation meets disclosure requirements of the Commission;

14 16. The release to employees of the Department of Mental Health
15 and Substance Abuse Services of information required to evaluate the
16 effectiveness of mental health and substance abuse treatment and
17 state or local programs utilized to divert persons from inpatient
18 treatment. The information obtained shall be kept confidential by
19 the Department and shall not be disclosed or be open to public
20 inspection. The Department of Mental Health and Substance Abuse
21 Services, however, may release aggregated data, either by treatment
22 facility, program or larger aggregate units, provided that the
23 aggregation meets disclosure requirements of the Oklahoma Employment
24 Security Commission;

1 17. The release to employees of the Attorney General, the
2 Oklahoma State Bureau of Investigation, and the Insurance Department
3 for use in the investigation of insurance fraud and health care
4 fraud;

5 18. The release to employees of public housing agencies for
6 purposes of determining eligibility pursuant to 42 U.S.C., Section
7 503(i);

8 19. The release of wage and benefit claim information, at the
9 discretion of the Commission, to an agency of this state or its
10 political subdivisions that operate a program or activity designated
11 as a required partner in the Workforce Innovation and Opportunity
12 Act One-Stop delivery system pursuant to 29 U.S.C.A., Section
13 3151(b)(1), based on a showing of need made to the Commission and
14 after an agreement concerning the release of information is entered
15 into with the entity receiving the information;

16 20. The release of information to the State Wage Interchange
17 System, at the discretion of the Commission;

18 21. The release of information to the Bureau of the Census of
19 the U.S. Department of Commerce for the purpose of economic and
20 statistical research;

21 22. The release of employer tax information and benefit claim
22 information to the Oklahoma Health Care Authority for use in
23 determining eligibility for a program that will provide subsidies
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1 for health insurance premiums for qualified employers, employees,
2 self-employed persons, and unemployed persons;

3 23. The release of employer tax information and benefit claim
4 information to the State Department of Rehabilitation Services for
5 use in assessing results and outcomes of clients served;

6 24. The release of information to any state or federal law
7 enforcement authority when necessary in the investigation of any
8 crime in which the Commission is a victim. Information that is
9 confidential under this section shall be held confidential by the
10 law enforcement authority unless and until it is required for use in
11 court in the prosecution of a defendant in a criminal prosecution;

12 25. The release of information to vendors that contract with
13 the Oklahoma Employment Security Commission to provide for the
14 issuance of debit cards, to conduct electronic fund transfers, to
15 perform computer programming operations, or to perform computer
16 maintenance or replacement operations; provided the vendor agrees to
17 protect and safeguard the information it receives and to destroy the
18 information when no longer needed for the purposes set out in the
19 contract;

20 26. The release to employees of the Office of Juvenile Affairs
21 of information for use in assessing results and outcomes of clients
22 served as well as the effectiveness of state and local juvenile and
23 justice programs including prevention and treatment programs. The
24 information obtained shall be kept confidential by the Office of

1 Juvenile Affairs and shall not be disclosed or be open to public
2 inspection. The Office of Juvenile Affairs may release aggregated
3 data for programs or larger aggregate units, provided that the
4 aggregation meets disclosure requirements of the Oklahoma Employment
5 Security Commission;

6 27. The release of information to vendors that contract with
7 the State of Oklahoma for the purpose of providing a public
8 electronic labor exchange system that will support the Oklahoma
9 Employment Security Commission's operation of an employment service
10 system to connect employers with job seekers and military veterans.
11 This labor exchange system would enhance the stability and security
12 of Oklahoma's economy as well as support the provision of veterans'
13 priority of service. The vendors may perform computer programming
14 operations, perform computer maintenance or replacement operations,
15 or host the electronic solution; provided, each vendor agrees to
16 protect and safeguard all information received, that no information
17 shall be disclosed to any third party, that the use of the
18 information shall be restricted to the scope of the contract, and
19 that the vendor shall properly dispose of all information when no
20 longer needed for the purposes set out in the contract; or

21 28. The release of employer tax information and benefit claim
22 information to employees of a county public defender's office in the
23 State of Oklahoma and the Oklahoma Indigent Defense System for the
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1 purpose of determining financial eligibility for the services
2 provided by such entities.

3 D. Subpoenas to compel disclosure of information made
4 confidential by this statute shall not be valid, except for
5 administrative subpoenas issued by federal, state, or local
6 governmental agencies that have been granted subpoena power by
7 statute or ordinance. Confidential information maintained by the
8 Commission can be obtained by order of a court of record that
9 authorizes the release of the records in writing. All
10 administrative subpoenas or court orders for production of documents
11 must provide a minimum of twenty (20) days from the date it is
12 served for the Commission to produce the documents. If the date on
13 which production of the documents is required is less than twenty
14 (20) days from the date of service, the subpoena or order shall be
15 considered void on its face as an undue burden or hardship on the
16 Commission. All administrative subpoenas, court orders or notarized
17 waivers of confidentiality authorized by paragraph 2 of subsection C
18 of this section shall be presented with a request for records within
19 ninety (90) days of the date the document is issued or signed, and
20 the document can only be used one time to obtain records.

21 E. Should any of the disclosures provided for in this section
22 require more than casual or incidental staff time, the Commission
23 shall charge the cost of the staff time to the party requesting the
24 information.

1 F. It is further provided that the provisions of this section
2 shall be strictly interpreted and shall not be construed as
3 permitting the disclosure of any other information contained in the
4 records and files of the Commission.

5 SECTION 2. This act shall become effective **July 1, 2020.**

6 **SECTION 3. It being immediately necessary for the preservation**
7 **of the public peace, health or safety, an emergency is hereby**
8 **declared to exist, by reason whereof this act shall take effect and**
9 **be in full force from and after its passage and approval.**

10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
11 February 27, 2020 - DO PASS AS AMENDED
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