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**CORRECTED**

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1167

By: Pemberton

AS INTRODUCED

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

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

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

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

A. Except as otherwise provided by law, information obtained from any employing unit or individual pursuant to the administration of the Employment Security Act of 1980, any workforce system program administered or monitored by the Oklahoma Employment Security Commission, and determinations as to the benefit rights of any

1 individual shall be kept confidential and shall not be disclosed or  
2 be open to public inspection in any manner revealing the  
3 individual's or employing unit's identity. Any claimant or  
4 employer, or agent of either as authorized in writing, shall be  
5 supplied with information from the records of the Oklahoma  
6 Employment Security Commission, to the extent necessary for the  
7 proper presentation of the claim or complaint in any proceeding  
8 under the Employment Security Act of 1980, with respect thereto.

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

19 C. The provisions of this section shall not prevent the  
20 Commission from disclosing the following information and no  
21 liability whatsoever, civil or criminal, shall attach to any member  
22 of the Commission or any employee thereof for any error or omission  
23 in the disclosure of this information:  
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1           1. The delivery to taxpayer or claimant a copy of any report or  
2 other paper filed by the taxpayer or claimant pursuant to the  
3 Employment Security Act of 1980;

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

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

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

18           5. The disclosing of information or evidence to the Attorney  
19 General or any district attorney when the information or evidence is  
20 to be used by the officials or other parties to the proceedings to  
21 prosecute or defend allegations of violations of the Employment  
22 Security Act of 1980. The information disclosed to the Attorney  
23 General or any district attorney shall be kept confidential by them  
24 and not be disclosed except when presented to a court in a

1 prosecution of a violation of Section 1-101 et seq. of this title,  
2 and a violation by the Attorney General or district attorney by  
3 otherwise releasing the information shall be a felony;

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

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

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

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

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

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

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

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

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

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

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

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

1 aggregation meets disclosure requirements of the Oklahoma Employment  
2 Security Commission;

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

7 18. The release to employees of public housing agencies for  
8 purposes of determining eligibility pursuant to 42 U.S.C., Section  
9 503(i);

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

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

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

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

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

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

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

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



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

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

22 28. The release of employer tax information and benefit claim  
23 information to employees of a county public defender's office in the  
24 State of Oklahoma and the Oklahoma Indigent Defense System for the

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.

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

SECTION 2. This act shall become effective November 1, 2020.

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