

1 **SENATE FLOOR VERSION**

2 April 12, 2017

3 ENGROSSED HOUSE
4 BILL NO. 1597

By: Calvey of the House

5 and

6 Newberry of the Senate

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9 [labor - Employment Security Act of 1980 - modifying
10 issuance of subpoenas - effective date]

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

14 SECTION 1. AMENDATORY 40 O.S. 2011, Section 4-508, as
15 last amended by Section 19, Chapter 249, O.S.L. 2015 (40 O.S. Supp.
16 2016, Section 4-508), is amended to read as follows:

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

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

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

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

18 C. The provisions of this section shall not prevent the
19 Commission from disclosing the following information and no
20 liability whatsoever, civil or criminal, shall attach to any member
21 of the Commission or any employee thereof for any error or omission
22 in the disclosure of such 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 such 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 State
22 Insurance Fund, the Department of Labor, the Workers' Compensation
23 Commission, and the Insurance Department for use in investigation of
24 workers' compensation fraud;

1 11. The release to employees of any Oklahoma state, Oklahoma
2 county or Oklahoma municipal law enforcement agency for use in
3 criminal investigations and the location of missing persons or
4 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 Center for Economic and
17 Management Research of the University of Oklahoma, the Center for
18 Economic and Business Development at Southwestern Oklahoma State
19 University, or a center of economic and business research or
20 development at a comprehensive or regional higher education
21 institution within The Oklahoma State System of Higher Education of
22 information required to identify economic trends. The information
23 obtained shall be kept confidential by the higher education
24 institution and shall not be disclosed or be open to public

1 inspection. The higher education institution may release aggregated
2 data, provided that such aggregation meets disclosure requirements
3 of the Commission;

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

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

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

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

6 19. The release of wage and benefit claim information, at the
7 discretion of the Commission, to an agency of this state or its
8 political subdivisions, or any nonprofit corporation that operates a
9 program or activity designated as a partner in the Workforce
10 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
11 Section 2481(b), based on a showing of need made to the Commission
12 and after an agreement concerning the release of information is
13 entered into with the entity receiving the information;

14 20. The release of information to the wage record interchange
15 system, at the discretion of the Commission;

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

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

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

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

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

18 26. The release to employees of the Office of Juvenile Affairs
19 of information for use in assessing results and outcomes of clients
20 served as well as the effectiveness of state and local juvenile and
21 justice programs including prevention and treatment programs. The
22 information obtained shall be kept confidential by the Office of
23 Juvenile Affairs and shall not be disclosed or be open to public
24 inspection. The Office of Juvenile Affairs may release aggregated

1 data for programs or larger aggregate units, provided that the
2 aggregation meets disclosure requirements of the Oklahoma Employment
3 Security Commission; or

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

19 D. Subpoenas to compel disclosure of information made
20 confidential by this statute shall not be valid, except for
21 administrative:

22 1. Administrative subpoenas issued by federal, state, or local
23 governmental agencies that have been granted subpoena power by
24 statute or ordinance; or

1 2. Subpoenas issued pursuant to Section 2004.1 of Title 12 of
2 the Oklahoma Statutes by a judgement creditor.

3 Confidential information maintained by the Commission can be
4 obtained by order of a court of record that authorizes the release
5 of the records in writing. All ~~administrative~~ subpoenas authorized
6 by this section or court orders for production of documents ~~must~~
7 shall provide a minimum of twenty (20) days from the date it is
8 served for the Commission to produce the documents. If the date on
9 which production of the documents is required is less than twenty
10 (20) days from the date of service, the subpoena or order shall be
11 considered void on its face as an undue burden or hardship on the
12 Commission. All ~~administrative~~ subpoenas authorized by this
13 section, court orders or notarized waivers of confidentiality
14 authorized by paragraph 2 of subsection C of this section shall be
15 presented with a request for records within ninety (90) days of the
16 date the document is issued or signed, and the document can only be
17 used one time to obtain records.

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

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

3 SECTION 2. This act shall become effective November 1, 2017.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
5 April 12, 2017 - DO PASS AS AMENDED
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