

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3657 _____ Of the printed Bill
Page _____ Section _____ Lines _____

Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu
thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mark Tedford

Reading Clerk

1 Short Title: labor; definitions; agriculture; effective date.

2 Subject(s):

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1 STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

3 PROPOSED POLICY
4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3657

By: Tedford

8 PROPOSED POLICY COMMITTEE SUBSTITUTE

9 An Act relating to labor; amending 40 O.S. 2021,
10 Section 1-210, which relates to employment
11 definitions; modifying payment references for certain
agricultural services; and providing an effective
date.

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

13
14 SECTION 1. AMENDATORY 40 O.S. 2021, Section 1-210, is
15 amended to read as follows:

16 Section 1-210. Employment.

17 EMPLOYMENT.

18 "Employment" means:

19 (1) Any service, including service in interstate commerce,
20 performed by:

21 (a) any officer of a corporation; or

22 (b) any individual who, under the usual common-law rules
23 applicable in determining the employer-employee

relationship, as provided in paragraph (14) of this section, has the status of an employee.

(2) (a) any service, including service in interstate commerce, performed by any individual other than an individual who is an employee under paragraph (1) of this section who performs services for remuneration for any person:

(i) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry cleaning services, for the individual's principal; or

(ii) as a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, an individual's principal, except for sideline sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(b) provided, the term "employment" shall include services described in divisions (i) and (ii) of subparagraph (a) of this paragraph if:

- (i) the contract of service contemplates that substantially all of the services are to be performed personally by such individual;
- (ii) the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and
- (iii) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(3) Service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided, that such service is excluded from "employment" as defined in the Federal Employment Tax Act, 26 U.S.C., Section 3306(c)(7), and is not included from "employment" under paragraph (7) of this section.

(4) Service performed by an individual in the employ of a
community chest, fund, foundation or corporation, organized and

1 operated exclusively for religious, charitable, scientific, testing
2 for public safety, literary or educational purposes, or for the
3 prevention of cruelty to children or animals, no part of the net
4 earnings of which inures to the benefit of any private shareholder
5 or individual, no substantial part of the activities of which is
6 carrying on propaganda, or otherwise attempting to influence
7 legislation and which does not participate in, or intervene in,
8 including the publishing or distributing of statements, any
9 political campaign on behalf of any candidate for public office;
10 provided that such organization had four or more individuals in
11 employment for some portion of a day in each of twenty (20)
12 different weeks, whether or not such weeks were consecutive, within
13 either the calendar year or preceding calendar year, regardless of
14 whether they were employed at the same moment of time.

15 (5) Service performed by an individual in agricultural labor as
16 defined in subparagraph (a) of paragraph (15) of this section when:

17 (a) the service is performed for a person who:
18 (i) during any calendar quarter in either the
19 calendar year or the preceding calendar year,
20 paid ~~remuneration in cash~~ wages of Twenty
21 Thousand Dollars (\$20,000.00) or more to
22 individuals employed in agricultural labor; or
23 (ii) for some portion of a day in each of twenty (20)
24 different calendar weeks, whether or not the

1 weeks were consecutive, in either the calendar
2 year or the preceding calendar year, employed in
3 agricultural labor ten or more individuals,
4 regardless of whether they were employed at the
5 same moment of time.

6 (b) for the purposes of this paragraph any individual who
7 is a member of a crew furnished by a crew leader to
8 perform service in agricultural labor for any other
9 person shall be treated as an employee of the crew
10 leader:

11 (i) if the crew leader holds a valid certificate of
12 registration under the Farm Labor Contractor
13 Registration Act of 1963, Public Law 95-562, 29
14 U.S.C., Sections 1801 through 1872; or
15 substantially all the members of the crew operate
16 or maintain tractors, mechanized harvesting or
17 crop-dusting equipment, or any other mechanized
18 equipment, which is provided by the crew leader;
19 and

20 (ii) if the individual is not an employee of the other
21 person within the meaning of paragraph (1) of
22 this section or subparagraph (d) of this
23 paragraph.

(c) for the purposes of this paragraph, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subparagraph (b) of this paragraph:

- (i) the other person and not the crew leader shall be treated as the employer of the individual; and
- (ii) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the individual's own behalf or on behalf of the other person, for the service in agricultural labor performed for the other person.

(d) for the purposes of this paragraph, the term "crew leader" means an individual who:

- (i) furnishes individuals to perform service in agricultural labor for any other person;
- (ii) pays, either on the individual's own behalf or on behalf of another person, the individuals so furnished by the crew leader for the service in agricultural labor performed by them; and
- iii) has not entered into a written agreement with the other person (farm operator) under which the

individual is designated as an employee of the other person.

(6) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person or entity who paid cash remuneration of One Thousand Dollars (\$1,000.00) or more to individuals employed in domestic service in any calendar quarter in the calendar year or the preceding calendar year.

(7) For the purposes of paragraphs (3) and (4) of this section the term "employment" does not apply to service performed:

(a) in the employ of:

(i) a church or convention or association of
churches;

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(iii) an elementary or secondary school which is operated primarily for religious purposes, which is described in 26 U.S.C., Section 501(c)(3), and which is exempt from tax under 26 U.S.C., Section 501(a);

- (b) by a duly ordained, commissioned or licensed minister of a church in the exercise of ministry or by a member of a religious order in the exercise of duties required by the order;
- (c) in the employ of a governmental entity referred to in paragraph (3) of this section if the service is performed by an individual in the exercise of duties:
 - (i) as an elected official;
 - (ii) as a member of a legislative body, or a member of the judiciary of a state or political subdivision;
 - (iii) as a member of the State National Guard or Air National Guard;
 - (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
 - (v) in a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week;

- (vi) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than One Thousand Dollars (\$1,000.00);
- (d) by an individual who is participating or enrolled in a program of an organization that provides rehabilitation through work for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or a program of an organization that provides work for individuals who, because of their impaired mental or physical capacity cannot be readily absorbed into the competitive labor market; provided that the services are performed by a program participant on real property owned or leased directly by the organization or by a program participant working under a special certificate issued by the U.S. Secretary of Labor pursuant to 29 U.S.C., Section 214(c) and 29 C.F.R., Section 525.1 et seq.;
- (e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof or of an Indian tribe,

by an individual receiving such work-relief or work-training; or

(f) by an inmate of a custodial or penal institution.

(8) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside United States, except in Canada, in the employ of an American employer other than service which is deemed "employment" under the provisions of paragraph (11) or (12) of this section or the parallel provisions of another state's law, if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but:

(i) the employer is an individual who is a resident of this state;

(ii) the employer is a corporation which is organized under the laws of this state; or

(iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state;

(c) none of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed

1 to elect coverage in any state, the individual has
2 filed a claim for benefits, based on such service,
3 under the laws of this state;

4 (d) an "American employer", for purposes of this
5 subsection, means a person who is:

6 (i) an individual who is a resident of the United
7 States;

8 (ii) a partnership if two-thirds (2/3) or more of the
9 partners are residents of the United States;

10 (iii) a trust, if all of the trustees are residents of
11 the United States; or

12 (iv) a corporation organized under the laws of the
13 United States or of any state; and

14 (e) the term "United States", for the purposes of this
15 subsection, includes the states, the District of
16 Columbia, the Commonwealth of Puerto Rico and the
17 Virgin Islands.

18 (9) Notwithstanding paragraph (11) of this section, all service
19 performed by an officer or member of the crew of an American vessel
20 on or in connection with the vessel, if the operating office, from
21 which the operations of the vessel operating on navigable waters
22 within, or within and without, the United States are ordinarily and
23 regularly supervised, managed, directed and controlled is within
24 this state.

(10) Notwithstanding any other provisions of the Employment Security Act of 1980, "employment":

(a) includes any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for

(b) includes any service which is required to be "employment" for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act of 1954, Public Law 591, Chapter 736, as amended, 26 U.S.C., Section 3301 et seq.

(11) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

- (a) the service is localized in this state; or
- (b) the service is not localized in any state but some of the service is performed in this state and:
 - (i) the individual's base of operations, or, if there is no base of operations, then the place from which the individual's employment is directed or controlled is in this state; or
 - (ii) the individual's base of operations or place from which the service is directed or controlled is not in any state in which some part of the

service is performed but the individual's residence is in this state.

(12) (a) Services covered by an election pursuant to Section 3-203 of this title; and

(b) services covered by an arrangement pursuant to Section 4-701 et seq. of this title between the Oklahoma Employment Security Commission and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state,

13 shall be deemed to be employment if the Commission has approved an
14 election of the employing unit for whom such services are performed,
15 pursuant to which the entire service of such individual during the
16 period covered by such election is deemed to be insured work.

(13) Service shall be deemed to be localized within a state if:

- (a) the service is performed entirely within such state;
 - or
- (b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

1 (14) Notwithstanding any other provision of this subsection,
2 services performed by an individual for wages shall be deemed to be
3 employment subject to the Employment Security Act of 1980 if the
4 services are performed by the individual in an employer-employee
5 relationship with the employer using the 20-factor test used by the
6 Internal Revenue Service of the United States Department of Treasury
7 in Revenue Ruling 87-41, 1987-1 C.B. 296. The Oklahoma Employment
8 Security Commission shall have the exclusive authority to make a
9 determination of whether an individual is an independent contractor
10 or employee.

11 | (15) The term "employment" shall not include:

- (a) services performed by an individual in agricultural labor, except as provided under paragraph (5) of this section. Services performed by an individual who is a nonresident alien admitted to the United States to perform agricultural labor, pursuant to 8 U.S.C., Sections 1101(a), 1184(c) and 1188. For purposes of this subparagraph, the term "agricultural labor" means remunerated service performed in agricultural labor as defined in the Federal Unemployment Tax Act, 26 U.S.C., Section 3306(k);
- (b) domestic service, except as provided under paragraph (6) of this section, in a private home, local college

club, or local chapter of a college fraternity or sorority;

(c) service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of twenty-one (21)

father and mother;

(d) service performed in the employ of the United States

9 government or an instrumentality of the United States
10 exempt under the Constitution of the United States
11 from the contributions imposed by the Employment

12 Security Act of 1980, except that to the extent that

14 to require any instrumentalities of the United States

15 to make payments into an unemployment fund under a

provisions of the Employment Security Act of 1980

shall be applicable to such instrumentalities, and

19 services performed for such instrumentalities, in the

same manner, to the same extent, and on the same terms

22 individuals and services; provided that if this state

23 shall not be certified for any year by the Secretary

Internal Revenue Code, 26 U.S.C., Section 3304(c), the payments required of such instrumentalities with respect to the year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 3-304 of this title with respect to contributions erroneously collected;

- (e) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;
- (f) service performed in the employ of a foreign government, including service as a consul or other officer or employee or a nondiplomatic representative;
- (g) service performed in the employ of an instrumentality wholly owned by a foreign government:
 - (i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof, and
 - (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent

exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

- (h) service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;
- (i) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;
- (j) service performed by an individual for a person, firm, association, trust, partnership or corporation as an

insurance agent, or as an insurance solicitor or as a licensed real estate agent, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions or fees;

(k) service performed by an individual under the age of eighteen (18) in the delivery and distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, and services performed by an individual eighteen (18) years of age or older who meets the definition of a "direct seller" as defined in 26 U.S.C., Section 3508(b)(2), that states in pertinent part:

(i) the individual must be engaged in the delivery or distribution of newspapers or shopping news, including any services directly related to such trade or business,

(ii) substantially all the remuneration, whether or not paid in cash, for the performance of the services described in division (i) of this subparagraph is directly related to sales or other output, including the performance of

services, rather than the number of hours worked, and

(iii) the services performed by the individual are performed pursuant to a written contract between the person and the person for whom the services are performed and the contract provides that the person will not be treated as an employee with respect to the services;

(1) service performed in the employ of a school, college or university, if the service is performed:

(i) by a student who is enrolled and is regularly attending classes at the school, college, or university, or

(ii) by the spouse of the student, if the spouse is advised, at the time the spouse commences to perform the service, that:

(I) the employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college, or university, and

(II) the employment will not be covered by any program of unemployment insurance:

(m) service performed by an individual who is enrolled at a nonprofit or public educational institution which

normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this provision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

- (n) service performed in the employ of a hospital, if the service is performed by a patient of the hospital;
- (o) services performed by cooperative extension personnel holding federal appointments employed by state institutions of higher learning;
- (p) earnings of employees being paid by state warrants who are presently covered by the Federal Unemployment Compensation Act, 5 U.S.C., Section 8501 et seq., by virtue of their federal status;
- (q) cosmetology services performed by an individual in a beauty shop, as defined by Section 199.1 of Title 59 of the Oklahoma Statutes, pursuant to an agreement

whereby the owner of the beauty shop leases or rents facilities for cosmetology to such individual;

- (r) barbering services performed by an individual in a barber shop, as defined by Section 61.5 of Title 59 of the Oklahoma Statutes, pursuant to an agreement whereby the owner of the barber shop leases or rents facilities for barbering to such individual;
- (s) services performed as a participant in a work or training program administered by the Department of Human Services;
- (t) riding services performed by a jockey and services performed by a trainer of racehorses in preparation for and during an approved race meeting licensed by the Oklahoma Horse Racing Commission;
- (u) service performed by an individual whose remuneration consists solely of commissions, overrides, bonuses, and differentials related to sales or other output derived from in-person sales to, or solicitation of orders from, ultimate consumers primarily in the home, or otherwise than in a permanent retail establishment;
- (v) service performed by a person, commonly referred to as "owner-operator", who owns or leases a truck-tractor or truck for hire, provided the owner-operator actually operates the truck-tractor or truck and,

further, that the entity contracting with the owner-operator is not the lessor of the truck-tractor or truck;

(w) services performed as a chopper of cotton who weeds or thins cotton crops by hand or hoe. This subsection shall be interpreted and applied consistently with the Federal Unemployment Tax Act, 26 U.S.C., Sections 3304 (a) (6) (A) and 3306 (k);

(x) services performed for a private for-profit person or entity by an individual as a landman:

(i) if the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals,

(ii) if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual, and

(iii) if the services performed by the individual are performed under a written contract between the individual and the person for whom the services

are performed; provided that the individual is to be treated as an independent contractor and not as an employee with respect to the services provided under the contract; or

(y) services performed by persons working under an AmeriCorps grant from the Corporation for National Service made pursuant to the National and Community Service Act of 1990 (NCSA) codified at 42 U.S.C., Section 12501 et seq.

SECTION 2. This act shall become effective November 1, 2026.

60-2-16001 TKR 01/28/26