

## LEGISLATIVE BILL 682

Approved by the Governor April 3, 1984

Introduced by Landis, 46

AN ACT relating to political subdivisions; to amend sections 16-325 and 17-108.02, Reissue Revised Statutes of Nebraska, 1943, sections 2-3216.01 to 2-3216.04, 18-301.01 to 18-301.04, 23-180 to 23-183, and 79-4,208 to 79-4,211, Revised Statutes Supplement, 1983, and section 17-209.02, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 368, Eighty-eighth Legislature, Second Session, 1984; to change provisions prohibiting certain contracts involving certain officers as prescribed; to redefine terms; to provide for the disclosure, recording, and storage of certain information; to provide exceptions; to change penalties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-3216.01, Revised Statutes Supplement, 1983, be amended to read as follows:  
2-3216.01. (1) For purposes of sections 2-3216.01 to 2-3216.05, officer shall mean any member of the board of directors of a natural resources district.

(2) No officer may be ~~directly or indirectly~~ interested in any contract to which the district, or anyone for its benefit, is a party. ~~No district officer shall be interested directly or indirectly in any contract to perform any work for, or furnish any material to, any contractor or subcontractor in conjunction with a contract between such contractor or subcontractor and the district the officer serves.~~ The existence of such an interest in any contract renders the contract voidable by decree of a court of proper jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the district or by any resident thereof, and must be brought within one year after the contract is signed or assigned. To meet the ends of justice any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the natural resources district has benefited thereby. The prohibition in this section shall apply only when the

officer or his or her parent, spouse, or child (a) has an ownership interest of five per cent or more in any business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract, only when the officer knows or could reasonably be expected to know that his or her interest will be affected by his or her official action, or by the action of the governmental body, department, or agency which he or she serves.

(3) The provisions in subsection (2) of this section shall not apply if the interested officer:

(a) Makes a declaration on the record Reveals in writing to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;

(b) Does not participate in the consideration or discussion of the contract, other than to reveal his or her interest;

(c) Does not attempt to influence employees or other officers in any way relating to the contract;

(d) (b) Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

(e) Removes himself or herself during the consideration of, discussion of, and vote on the contract, and

(f) Does not act, directly or indirectly, for the district which is party to the contract as to inspection, operation, administration, or performance under the contract in which he or she has an interest.

(4) An officer who is (a) an employee of the business involved in the contract and (b) has no ownership interest and will not receive a pecuniary fee, as prescribed in subdivisions (2)(a) and (2)(b) of this section, shall not be deemed to have an interest within the meaning of this section.

(5) (4) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any district by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than one five per cent of the outstanding shares of a corporation shall not constitute an interest, direct or indirect, within the meaning of this section.

(6) Notwithstanding the provision of subdivision (3)(b) of this section, if an officer's parent, spouse, or child is an employee of the natural resources district, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ

personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to section 2-3216.02, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made.

(7) ~~(5)~~ Notwithstanding any other provision of this section, any contract entered into with an interested officer of the district shall be subject to applicable competitive bidding requirements and ~~must represent the best alternative available to the district in terms of factors such as, but not limited to, price and quality of the property or services shall be fair and reasonable to the district.~~

(8) ~~(6)~~ Nothing in this section shall prohibit a natural resources district director from acting as a participant in any of the conservation or other general district programs which are available for like participation to other residents and landowners of the district, or from granting, selling, or otherwise transferring to such district any interest in real property necessary for the exercise of its powers and authorities if the cost of acquisition thereof is equal to or less than that established by a board of three real estate appraisers qualified in accordance with sections 81-8,276 and 81-8,287, or by a court of competent jurisdiction in an eminent domain proceeding.

District payments to a director of the fair market value for real property owned by him or her and needed for district projects, or for cost-sharing for conservation work on such director's land or land in which a director may have an interest, shall not be deemed subject to provisions of this section.

Sec. 2. That section 2-3216.02, Revised Statutes Supplement, 1983, be amended to read as follows:

2-3216.02. The person charged with keeping records for each natural resources district shall maintain, separately from other records, a ledger containing the information listed in subdivisions (1) to (5) of this section about every contract entered into by the district in which an officer of that district has ~~a direct or indirect~~ interest as specified in subsection (2) of section 2-3216.01 and for which disclosure is made as provided in subsection (3) of section 2-3216.01. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the: Any officer who has a direct or indirect interest, as provided in subsection (2) of section 2-3216.01, in a contract entered into with the district he or she serves, shall provide the person charged with keeping records with the-

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in

question;

(3) Date that the contract was approved by the district involved;

(4) Amount of the contract; and

(5) Basic terms of the contract.

The information supplied relative to the contract shall be provided not later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this section shall be available for public inspection during the normal working hours of the office in which it is kept.

Sec. 3. That section 2-3216.03, Revised Statutes Supplement, 1983, be amended to read as follows:

2-3216.03. An open account established for the benefit of any natural resources district or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of sections 2-3216.02 to 2-3216.05. The statement required to be filed pursuant to section 2-3216.02 shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for each natural resources district shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of sections 2-3216.01 to 2-3216.05. the interested officer shall file a revision to the statement whenever a payment is made on the account. Such revision shall specify the date and amount of the payment.

Sec. 4. That section 2-3216.04, Revised Statutes Supplement, 1983, be amended to read as follows:

2-3216.04. Any district officer who knowingly violates sections 2-3216.01 to 2-3216.03 shall be guilty of a Class ~~IV~~ felony III misdemeanor. Any district officer who negligently violates sections 2-3216.01 to 2-3216.03 shall be guilty of a Class V misdemeanor.

Sec. 5. Any natural resources district may exempt from the provisions of sections 2-3216.01 to 2-3216.04 contracts involving one hundred dollars or less in which an officer of such district may have an interest.

Sec. 6. That section 16-325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-325. (1) There may be in each city a board of public works which shall consist of three members, each having a three-year term of office, or five members, each having a five-year term of office, the number to be set by ordinance, which members shall be residents of ~~said~~ such city and be appointed by the mayor, by and with the assent of the council. When such board is first established, one member shall be appointed for a term of one year, one for two years, and one for three years and, in the case of a five-member board, an additional member shall be so appointed for four years and another for five years.

Thereafter, as their terms expire, all members shall be appointed for a full term of three or five years as the case may be. The mayor, by and with the assent of the council, shall designate one of the members of such board to be the chairman chairperson thereof.

(2) Each of the members of the board of public works shall, before entering upon the discharge of his or her duties, take an oath to discharge faithfully the duties of his the office. ~~Except as provided in section 70-624-04, no member of such board shall ever be directly or indirectly interested in any contract entered into by the board on behalf of such city nor be interested, either directly or indirectly, in the purchase of any material to be used or applied for municipal purposes for more than ten thousand dollars in any year.~~

(3) It shall be the duty of the board of public works to (a) make contracts on behalf of the city for the performance of all such work and erection of all such improvements in the manner provided in section 16-321, (b) superintend the performance of all such work and the erection of all such improvements, (c) approve the estimates of the city engineer, which may be made from time to time, of the value of the work as the same may progress, (d) accept any work done or improvements made when the same shall be fully completed according to contract, subject to the approval of the mayor and council, and (e) perform such other duties as may be conferred upon such board by ordinance.

(4) Any member of the board of public works may at any time be removed from office by the mayor and a majority of the council, and the proceedings in regard thereto shall be entered in the journal of the council.

Sec. 7. That section 17-108.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-108.02. All other officers and employees of the city shall receive such compensation as the mayor and council may fix at the time of their appointment or employment, except as hereinafter set forth. The local governing body of the city may, at its discretion, by ordinance combine and merge any elective or appointive office or employment, except mayor and ~~seuneilman council member~~, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. ~~Any , PROVIDED, the offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The , AND PROVIDED FURTHER, the salary or compensation of the officer or employee, holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices,~~



employment, or employments, so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

Sec. 8. That section 17-209.02, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 368, Eighty-eighth Legislature, Second Session, 1984, be amended to read as follows:

17-209.02. The local governing body of a village may, at its discretion, by ordinance combine and merge any elective or appointive office or employment, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time, except that trustees may perform and upon board approval receive compensation for seasonal or emergency work subject to the maximum contract amount set forth in section 18-301 the provisions of sections 18-301.01 to 18-301.04. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section volunteer firefighters and ambulance drivers shall not be considered officers.

Sec. 9. That section 18-301.01, Revised Statutes Supplement, 1983, be amended to read as follows:

18-301.01. (1) For purposes of sections 18-301.01 to 18-301.05, officer shall mean (a) any elected or appointed official or member of any board or commission of any city or village, (b) any appointed official if such city or village official (i) serves on a board or commission which spends and administers its own funds and (ii) is dealing with a contract made by such board or commission, or (c) any elected city or village official. For purposes of sections 18-301.01 to 18-301.05, volunteer firefighters and ambulance drivers shall not be considered officers with respect to their duties as firefighters and ambulance drivers.

(2) Except as provided in section 70-624.04, no officer of any city or village may be directly or indirectly interested in any contract to which the city or village, or anyone for its benefit, is a party. No officer shall be interested directly or indirectly in any contract to perform any work for, or furnish any material to, any contractor or subcontractor in conjunction with a contract between such contractor or subcontractor and the city or village the officer serves. The existence of such an interest in any contract renders the contract voidable by

decree of a court of proper jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the city or village or by any resident thereof, and must be brought within one year after the contract is signed or assigned. To meet the ends of justice any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the city or village has benefited thereby. The prohibition in this section shall apply only when the officer knows or could reasonably be expected to know that his or her interest will be affected by his or her official action, or by the action of the governmental body, department, or agency which he or she serves when the officer or his or her parent, spouse, or child (a) has an ownership interest of five per cent or more in any business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(3) The provisions in subsection (2) of this section shall not apply if the interested officer:

(a) ~~Makes a declaration on the record~~ Reveals in writing to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;

~~(b) Does not participate in the consideration or discussion of the contract, other than to reveal his or her interest;~~

~~(c) Does not attempt to influence other officers or employees in any way relating to the contract;~~

~~(d) Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and~~

~~(e) Removes himself or herself during the consideration of, discussion of, and vote on the contract; and~~

~~(f) Does not act, directly or indirectly, for the city or village which is party to the contract as to inspection, operation, administration, or performance under the contract in which he or she has an interest.~~

(4) An officer who (a) is an employee of the business involved in the contract and (b) has no ownership interest or will not receive a pecuniary fee, as prescribed in subdivisions (2)(a) and (2)(b) of this section, shall not be deemed to have an interest within the meaning of this section.

(5) (4) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any city or village by a financial institution shall not be considered a contract under the

provisions of this section. The ownership of less than ~~one~~ five per cent of the outstanding shares of a corporation shall not constitute an interest; ~~direct or indirect;~~ within the meaning of this section.

(6) Notwithstanding the provision of subdivision (3)(b) of this section, if an officer's parent, spouse, or child is an employee of the city or village, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to section 18-301.02, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made.

(7) ~~(5)~~ Notwithstanding any other provision of this section, any contract entered into with an interested officer of the city or village shall be subject to applicable competitive bidding requirements and shall represent the best alternative available to the city or village in terms of, but not limited to, price and quality of the property or services be fair and reasonable to the city or village.

Sec. 10. That section 18-301.02, Revised Statutes Supplement, 1983, be amended to read as follows:

18-301.02. The clerk of every city and village shall maintain, separately from other records, a ledger containing the information listed in subdivisions (1) to (5) of this section about every contract entered into by the city or village in which an officer of that city or village has an a direct or indirect interest as specified in subsection (2) of section 18-301.01 and for which disclosure is made as provided in subsection (3) of section 18-301.01. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the: Any officer who has a direct or indirect interest, as provided in subsection (2) of section 18-301.01, in a contract entered into with the city or village he or she serves, shall provide the clerk with the-

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in question;
- (3) Date that the contract was approved by the city or village involved;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

The information supplied relative to the contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties.



The ledger kept by the clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

Sec. 11. That section 18-301.03, Revised Statutes Supplement, 1983, be amended to read as follows:

18-301.03. An open account established for the benefit of any city or village or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of sections 18-301.01 to 18-301.03. The statement required to be filed pursuant to section 18-301.02 shall be filed within ten days after such account is opened. Thereafter, the clerk of the city or village shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of sections 18-301.01 to 18-301.05. the interested officer shall file a revision to the statement whenever a payment is made on the account. Such revision shall specify the date and amount of the payment.

Sec. 12. That section 18-301.04, Revised Statutes Supplement, 1983, be amended to read as follows:

18-301.04. Any city or village officer who knowingly violates the provisions of sections 18-301.01 to 18-301.03 shall be guilty of a Class IV ~~felony~~ III misdemeanor. Any city or village officer who negligently violates sections 18-301.01 to 18-301.03 shall be guilty of a Class V misdemeanor.

Sec. 13. Any city or village may enact ordinances exempting from the provisions of sections 18-301.01 to 18-301.04 contracts involving one hundred dollars or less in which an officer of such city or village may have an interest.

Sec. 14. That section 23-180, Revised Statutes Supplement, 1983, be amended to read as follows:

23-180. (1) For purposes of sections 23-180 to 23-184, officer shall mean (a) any elected or appointed official or member of any board or commission of a county, (b) any appointed county official if such official (i) serves on a board or commission which spends and administers its own funds and (ii) is dealing with a contract made by such board or commission, or (c) any elected county official. For purposes of sections 23-180 to 23-184, volunteer firefighters and ambulance drivers shall not be considered officers with respect to their duties as firefighters and ambulance drivers and except the county purchasing agent and his or her staff who shall not be considered officers and shall be subject to section 23-324.07.

(2) No officer may be directly or indirectly interested in any contract to which the county, or anyone for its benefit, is a party. No county officer shall be interested directly or indirectly in any contract to perform any work for, or furnish any material to, any

contractor or subcontractor in conjunction with a contract between such contractor or subcontractor and the county the officer serves. The existence of such an interest in any contract renders the contract voidable by decree of a court of proper jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county or by any resident thereof, and must be brought within one year after the contract is signed or assigned. To meet the ends of justice any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the county has benefited thereby. The prohibition in this section shall apply only when the officer knows or could reasonably be expected to know that his or her interest will be affected by his or her official action, or by the action of the governmental body, department, or agency which he or she serves when the officer or his or her parent, spouse, or child (a) has an ownership interest of five per cent or more in any business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(3) The provisions in subsection (2) of this section shall not apply if the interested officer:

(a) Makes a declaration on the record Reveals in writing to the governing body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;

(b) Does not participate in the consideration or discussion of the contract, other than to reveal his or her interest;

(c) Does not attempt to influence employees or other officers in any way relating to the contract;

(d) Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and;

(e) Removes himself or herself during the consideration of, discussion of, and vote on the contract; and

(f) Does not act, directly or indirectly, for the county which is party to the contract as to inspection, operation, administration, or performance under the contract in which he or she has an interest.

(4) An officer who is (a) an employee of the business involved in the contract and (b) has no ownership interest or will not receive a pecuniary fee, as prescribed in subdivisions (2)(a) and (2)(b) of this section, shall not be deemed to have an interest within the meaning of this section.

(5) ~~(4)~~ The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any county by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than ~~one~~ five per cent of the outstanding shares of a corporation shall not constitute an interest, ~~direct or indirect~~, within the meaning of this section.

(6) Notwithstanding the provision of subdivision (3)(b) of this section, if an officer's parent, spouse, or child is an employee of the county, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to section 23-181, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made.

(7) ~~(5)~~ Notwithstanding any other provision of this section, any contract entered into with an interested officer of the county shall be subject to applicable competitive bidding requirements and shall represent the best alternative available to the county in terms of factors such as, but not limited to, price and quality of the property or services be fair and reasonable to the county.

Sec. 15. That section 23-181, Revised Statutes Supplement, 1983, be amended to read as follows:

23-181. The clerk of every county shall maintain, separately from other records, a ledger containing the information listed in subdivisions (1) to (5) of this section about every contract entered into by the county in which an officer of that county has an ~~direct or indirect~~ interest as specified in subsection (2) of section 23-180 and for which disclosure is made as provided in subsection (3) of section 23-180. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the: Any officer who has a direct or indirect interest, as provided in subsection (2) of section 23-180, in a contract entered into with the county he or she serves, shall provide the clerk with the-

- (1) Names of the contracting parties;
  - (2) Nature of the interest of the officer in question;
  - (3) Date that the contract was approved by the county involved;
  - (4) Amount of the contract; and
  - (5) Basic terms of the contract.
- The information supplied relative to the

contract shall be provided to the clerk not later than ten days after the contract has been signed by both parties. The ledger kept by the clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

Sec. 16. That section 23-182, Revised Statutes Supplement, 1983, be amended to read as follows:

23-182. An open account established for the benefit of any county or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of sections 23-180 to 23-182. The statement required to be filed pursuant to section 23-181 shall be filed within ten days after such account is opened. Thereafter, the clerk of the county shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of sections 23-180 to 23-184. interested officer shall file a revision to the statement whenever a payment is made on the account. Such revision shall specify the date and amount of the payment.

Sec. 17. That section 23-183, Revised Statutes Supplement, 1983, be amended to read as follows:

23-183. Any county officer who knowingly violates sections 23-180 to 23-182 shall be guilty of a Class IV felony III misdemeanor. Any county officer who negligently violates sections 23-180 to 23-182 shall be guilty of a Class V misdemeanor.

Sec. 18. Any county may exempt from the provisions of sections 23-180 to 23-183 contracts involving one hundred dollars or less in which an officer of such county may have an interest.

Sec. 19. That section 79-4,208, Revised Statutes Supplement, 1983, be amended to read as follows:

79-4,208. (1) For purposes of sections 79-4,208 to 79-4,212, officer shall mean (a) any elected or appointed official or member of any board or committee of a school district, (b) any appointed school official if such official (i) serves on a board or commission which spends and administers its own funds and (ii) is dealing with a contract made by such board or commission, or (c) any elected school official.

(2) Except as provided in section 70-624.04, no officer may be directly or indirectly interested in any contract in which the school district or anyone for its benefit is a party. No officer shall be interested directly or indirectly in any contract to perform any work for, or furnish any material to, any contractor or subcontractor in conjunction with a contract between such contractor or subcontractor and the school district the officer serves. The existence of such an interest in any contract renders the contract voidable by decree of a court of proper jurisdiction as to any person who entered into

the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the school district or by any resident thereof, and must be brought within one year after the contract is signed or assigned. To meet the ends of justice any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the school district has benefited thereby. The prohibition in this section shall apply only when the officer knows or could reasonably be expected to know that his or her interest will be affected by his or her official action or by the action of the governmental body, department, or agency which he or she serves when the officer or his or her parent, spouse, or child (a) has an ownership interest of five per cent or more in any business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(3) Subsection (2) of this section shall not apply if the interested officer:

(a) Makes a declaration on the record Reveals in writing to the governmental body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;

(b) Does not participate in the consideration or discussion of the contract, other than to reveal his or her interest;

(c) Does not attempt to influence employees or other officers in any way relating to the contract;

(d) Does not vote on the matter of granting the contract, except that if the number of members of the board declaring an interest in the contract would prevent the board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and

(e) Removes himself or herself during the consideration of, discussion of, and vote on the contract; and

(f) Does not act, directly or indirectly, for the school district which is party to the contract as to inspection, operation, administration, or performance under the contract in which he or she has an interest.

(4) An officer who (a) is an employee of the business involved in the contract and (b) has no ownership interest or will receive no pecuniary fee, as prescribed in subdivisions (2)(a) or (2)(b) of this section, shall not be deemed to have an interest within the meaning of this section.

(5) (4) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any school district by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than one



five per cent of the outstanding shares of a corporation shall not constitute an interest, direct or indirect, within the meaning of this section.

(6) Notwithstanding the provision of subdivision (3)(b) of this section, if an officer's parent, spouse, or child is an employee of the school district, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to section 79-4,209, except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made.

(7) ~~(5)~~ Notwithstanding any other provision of this section, any contract entered into with an interested officer of the school district shall be subject to applicable competitive bidding requirements and shall represent the best alternative available to the school district in terms of factors such as, but not limited to, price and quality of the property or services be fair and reasonable to the school district.

Sec. 20. That section 79-4,209, Revised Statutes Supplement, 1983, be amended to read as follows:

79-4,209. The county superintendent of each county for Class I districts and the superintendent of each Class II, III, IV, V, and VI district shall maintain for his or her respective school district, separately from other records, a ledger containing the information listed in subdivisions (1) to (5) of this section for every contract entered into by the school district in which an officer of that school district has an direct or indirect interest as specified in subsection (2) of section 79-4,208 and for which disclosure is made as provided in subsection (3) of section 79-4,208. Any officer who has a direct or indirect interest, as provided in subsection (2) of section 79-4,208, in a contract entered into with the school district he or she serves, shall provide the superintendent with the- Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in question;
- (3) Date that the contract was approved by the school district involved;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

The information supplied relative to the contract shall be provided to the superintendent not later

than ten days after the contract has been signed by both parties. The ledger kept by the superintendent shall be available for public inspection during the normal working hours of the office in which it is kept.

Sec. 21. That section 79-4,210, Revised Statutes Supplement, 1983, be amended to read as follows:

79-4,210. An open account established for the benefit of any school district or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of sections 79-4,208 to 79-4,210. The statement required to be filed pursuant to section 79-4,209 shall be filed within ten days after such account is opened. Thereafter, the county superintendent of each Class I district and the superintendent of each Class II, III, IV, V, and VI district shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of sections 79-4,208 to 79-4,211. ~~the interested officer shall file a revision to the statement whenever a payment is made on the account. Such revision shall specify the date and amount of the payment.~~

Sec. 22. That section 79-4,211, Revised Statutes Supplement, 1983, be amended to read as follows:

79-4,211. Any officer who knowingly violates sections 79-4,208 to 79-4,210 shall be guilty of a Class IV ~~felony~~ III misdemeanor. Any officer who negligently violates sections 79-4,208 to 79-4,210 shall be guilty of a Class V misdemeanor.

Sec. 23. Any school district may exempt from the provisions of sections 79-4,208 to 79-4,211 contracts involving one hundred dollars or less in which an officer of such school district may have an interest.

Sec. 24. That original sections 16-325 and 17-108.02, Reissue Revised Statutes of Nebraska, 1943, sections 2-3216.01 to 2-3216.04, 18-301.01 to 18-301.04, 23-180 to 23-183, and 79-4,208 to 79-4,211, Revised Statutes Supplement, 1983, and section 17-209.02, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 368, Eighty-eighth Legislature, Second Session, 1984, are repealed.

Sec. 25. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.