ENGROSSED HOUSE
BILL NO. 2101 By: Begley and Ferguson

An Act relating to public officers; amending 11 O.S. 1991, Section 8-113, as amended by Section 1, Chapter 118, O.S.L. 1995 (11 O.S. Supp. 1995, Section 8-113), which relates to certain officers and employees prohibited from conducting certain business with municipalities; providing exception for certain public officers from certain conflict of interest provisions; amending 21 O.S. 1991, Section 355, which relates to the furnishing of public supplies by certain public officers; providing exception for certain school board members; amending 62 O.S. 1991, Section 371, as last amended by Section 2, Chapter 118, O.S.L. 1995 (62 O.S. Supp. 1995, Section 371), which relates to contracts with officers; clarifying certain language; providing exception for certain school board members; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 8-113, as amended by Section 1, Chapter 118, O.S.L. 1995 (11 O.S. Supp. 1995, Section 8-113), is amended to read as follows:

Section 8-113. A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which said officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the municipality;

2. Contracting with the municipality; or

3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than two thousand five hundred (2,500) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within ten (10) miles of the corporate limits of the municipality.

C. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Provided that any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of such person, or any business in which such person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless such surplus property is offered for sale to the public after notice of the sale is published.

~~C.~~ D. For purposes of this section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the

business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any such interest held by a blind trust.

~~D.~~ E. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of the provisions of this section shall be held personally liable for the amount of ~~said~~ the transaction.

~~E.~~ F. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 355, is amended to read as follows:

Section 355. A. It shall be unlawful for any member of any board of county commissioners, city council or other governing body of any city, board of trustees of any town, board of directors of any township, board of education of any city or school district, to furnish, for a consideration any material or supplies for the use of ~~said~~ the county, city, town, township, or school district.

B. The provisions of this section shall not apply to those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes or to a member of any board of education of a school district in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who furnishes the material or supplies within ten (10) miles of the corporate limits of the municipality.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 371, as last amended by Section 2, Chapter 118, O.S.L. 1995 (62 O.S. Supp. 1995, Section 371), is amended to read as follows:

Section 371. A. Except as otherwise provided in this section, no board of county commissioners, nor city council, nor board of trustees of any town, nor any district board of any school district in this state, nor any board of any local subdivision of this state shall make any contract with any of its members, or in which any of its members shall be directly or indirectly interested~~; and all~~. All contracts made in violation of this section shall be wholly void.

~~Provided that~~ However, for the purposes of this section, the following shall not be considered the making of a contract:

1. The depositing of any funds in a bank or other depository ~~shall not be considered the making of a contract. Provided that for purposes of this section any~~;

2. Any contract with a qualified nonprofit Internal Revenue Code Section 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract entered into by a school district involving the counseling or instruction of students or staff~~, shall not be considered the making of a contract. Provided further that for the purposes of this section monthly~~; and

3. Monthly billings submitted to any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission, or billings of ~~said~~ the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for ~~such~~ the charges or billings by ~~said~~ the companies are on file with the Oklahoma Corporation Commission~~, shall not be considered the making of a contract. Provided further that the~~.

In addition, the governing board of an area vocational-technical school district may enter into a contract for the area vocational-technical school district to provide training for a company, individual, or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the area vocational-technical school district board and the company, individual, or business concern by which the member is employed.

B. The provisions of this section shall not apply to those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes or to a member of any board of education of a school district in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who owns or operates a business which is the only business of that type within ten (10) miles of the corporate limits of the municipality.

C. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

SECTION 4. This act shall become effective November 1, 1996.

Passed the House of Representatives the 7th day of March, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate