

E AND R AMENDMENTS TO LB 40

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 77-2704.12, Revised Statutes  
4 Supplement, 2011, is amended to read:

5           77-2704.12 (1) Sales and use taxes shall not be imposed  
6 on the gross receipts from the sale, lease, or rental of  
7 and the storage, use, or other consumption in this state of  
8 purchases by (a) any nonprofit organization created exclusively  
9 for religious purposes, (b) any nonprofit organization providing  
10 services exclusively to the blind, (c) any nonprofit private  
11 educational institution established under sections 79-1601 to  
12 79-1607, (d) any regionally or nationally accredited, nonprofit,  
13 privately controlled college or university with its primary campus  
14 physically located in Nebraska, (e) any nonprofit (i) hospital,  
15 (ii) health clinic when ~~two~~ one or more hospitals or the parent  
16 corporations of the hospitals own or control the health clinic  
17 for the purpose of reducing the cost of health services or when  
18 the health clinic receives federal funds through the United States  
19 Public Health Service for the purpose of serving populations that  
20 are medically underserved, (iii) skilled nursing facility, (iv)  
21 intermediate care facility, (v) assisted-living facility, (vi)  
22 intermediate care facility for the mentally retarded, (vii) nursing  
23 facility, (viii) home health agency, (ix) hospice or hospice

1 service, or (x) respite care service licensed under the Health Care  
2 Facility Licensure Act, (f) any nonprofit licensed child-caring  
3 agency, (g) any nonprofit licensed child placement agency, or (h)  
4 any nonprofit organization certified by the Department of Health  
5 and Human Services to provide community-based services for persons  
6 with developmental disabilities.

7 (2) Any organization listed in subsection (1) of this  
8 section shall apply for an exemption on forms provided by the  
9 Tax Commissioner. The application shall be approved and a numbered  
10 certificate of exemption received by the applicant organization in  
11 order to be exempt from the sales and use tax.

12 (3) The appointment of purchasing agents shall be  
13 recognized for the purpose of altering the status of the  
14 construction contractor as the ultimate consumer of building  
15 materials which are physically annexed to the structure and  
16 which subsequently belong to the owner of the organization or  
17 institution. The appointment of purchasing agents shall be in  
18 writing and occur prior to having any building materials annexed  
19 to real estate in the construction, improvement, or repair. The  
20 contractor who has been appointed as a purchasing agent may apply  
21 for a refund of or use as a credit against a future use tax  
22 liability the tax paid on inventory items annexed to real estate  
23 in the construction, improvement, or repair of a project for a  
24 licensed not-for-profit institution.

25 (4) Any organization listed in subsection (1) of this  
26 section which enters into a contract of construction, improvement,  
27 or repair upon property annexed to real estate without first

1 issuing a purchasing agent authorization to a contractor or  
2 repairperson prior to the building materials being annexed to  
3 real estate in the project may apply to the Tax Commissioner for  
4 a refund of any sales and use tax paid by the contractor or  
5 repairperson on the building materials physically annexed to real  
6 estate in the construction, improvement, or repair.

7 (5) Any person purchasing, storing, using, or  
8 otherwise consuming building materials in the performance of any  
9 construction, improvement, or repair by or for any institution  
10 enumerated in subsection (1) of this section which is licensed upon  
11 completion although not licensed at the time of construction or  
12 improvement, which building materials are annexed to real estate  
13 and which subsequently belong to the owner of the institution,  
14 shall pay any applicable sales or use tax thereon. Upon becoming  
15 licensed and receiving a numbered certificate of exemption,  
16 the institution organized not for profit shall be entitled to  
17 a refund of the amount of taxes so paid in the performance  
18 of such construction, improvement, or repair and shall submit  
19 whatever evidence is required by the Tax Commissioner sufficient  
20 to establish the total sales and use tax paid upon the building  
21 materials physically annexed to real estate in the construction,  
22 improvement, or repair.

23 Sec. 2. This act becomes operative on July 1, 2012.

24 Sec. 3. Original section 77-2704.12, Revised Statutes  
25 Supplement, 2011, is repealed.

26 Sec. 4. Since an emergency exists, this act takes effect  
27 when passed and approved according to law.

1                   2. On page 1, strike lines 2 through 5 and insert  
2 "77-2704.12, Revised Statutes Supplement, 2011; to change a sales  
3 tax exemption for health clinics; to provide an operative date; to  
4 repeal the original section; and to declare an emergency."