

SENATE BILL NO. 172—SENATORS WOODHOUSE, COFFIN,
SCHNEIDER, CARE, CARLTON, HORSFORD, LEE, MATHEWS
AND TITUS

FEBRUARY 28, 2007

Referred to Committee on Taxation

SUMMARY—Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids and hearing-aid accessories from sales and use taxes and analogous taxes. (BDR 32-865)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for certain durable medical equipment and mobility-enhancing equipment; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for hearing aids and hearing-aid accessories; providing for such an exemption from certain analogous taxes if the voters approve such an amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Sales and Use Tax Act of 1955, which was approved by the voters in a referendum on November 6, 1956. (Chapter 372 of NRS) Under existing law, if the voters approve a statute or resolution in a referendum, the statute or resolution is the law of the State and may not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const. Art. 19, § 1)

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local acts)



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Sections 1-8 of this bill require that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care.

Section 21 of this bill amends the Local School Support Tax Law to provide an exemption for durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care.

The exemptions from sales and use taxes for durable medical equipment and mobility-enhancing equipment become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

Sections 9-16 of this bill require that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for hearing aids and hearing-aid accessories.

Section 22 of this bill amends the Local School Support Tax Law to provide an exemption for hearing aids and hearing-aid accessories.

The exemptions from sales and use taxes for hearing aids and hearing-aid accessories become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 2. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 3. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.



THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis ~~and~~ *and durable medical equipment if prescribed by a licensed provider of health care acting within his scope of practice.*

(d) *Canes, crutches, manual or motorized wheelchairs or scooters that enhance the ability of a person to move, and other mobility-enhancing equipment if prescribed by a licensed provider of health care acting within his scope of practice.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation,



1 treatment or prevention of disease or affliction of the
2 human body and which is commonly recognized as a
3 substance or preparation intended for such use. The
4 term includes splints, bandages, pads, compresses and
5 dressings.

6 (b) "Medicine" does not include:

7 (1) Any auditory, ophthalmic or ocular device
8 or appliance.

9 (2) Articles which are in the nature of
10 instruments, crutches, canes, devices or other
11 mechanical, electronic, optical or physical equipment.

12 (3) Any alcoholic beverage, except where the
13 alcohol merely provides a solution in the ordinary
14 preparation of a medicine.

15 (4) Braces or supports, other than those
16 prescribed or applied by a licensed provider of health
17 care, within his scope of practice, for human use.

18 3. Insulin furnished by a registered pharmacist to
19 a person for treatment of diabetes as directed by a
20 physician shall be deemed to be dispensed on a
21 prescription within the meaning of this section.

22 Sec. 2. This act becomes effective on January 1,
23 2009.

24 **Sec. 4.** The ballot page assemblies and the paper ballots to be
25 used in voting on the question must present the question in
26 substantially the following form:

27 Shall the Sales and Use Tax Act of 1955 be amended to
28 provide an exemption from the taxes imposed by this Act on
29 the gross receipts from the sale and the storage, use or other
30 consumption of durable medical equipment and mobility-
31 enhancing equipment prescribed by a licensed provider of
32 health care?

33 Yes ☐ No ☐

34 **Sec. 5.** The explanation of the question which must appear on
35 each paper ballot and sample ballot and in every publication and
36 posting of notice of the question must be in substantially the
37 following form:

38
39 (Explanation of Question)

40 The proposed amendment to the Sales and Use Tax Act of
41 1955 would exempt from the taxes imposed by this Act the
42 gross receipts from the sale and storage, use or other
43 consumption of durable medical equipment and mobility-
44 enhancing equipment prescribed by a licensed provider of
45 health care. If this proposal is adopted, the Legislature has



provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 6. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 7. All general election laws not inconsistent with this act are applicable.

Sec. 8. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 9. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 10. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 11. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.



THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) Hearing aids and hearing-aid accessories.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:



(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 2. This act becomes effective on January 1, 2009.

Sec. 12. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of hearing aids and hearing-aid accessories?

Yes ☐ No ☐

Sec. 13. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of hearing aids and hearing-aid accessories. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 14. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.



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1 **Sec. 15.** All general election laws not inconsistent with this act
2 are applicable.

3 **Sec. 16.** Any informalities, omissions or defects in the content
4 or making of the publications, proclamations or notices provided for
5 in this act and by the general election laws under which this election
6 is held must be so construed as not to invalidate the adoption of the
7 act by a majority of the registered voters voting on the question if it
8 can be ascertained with reasonable certainty from the official returns
9 transmitted to the Office of the Secretary of State whether the
10 proposed amendment was adopted by a majority of those registered
11 voters.

12 **Sec. 17.** Chapter 372 of NRS is hereby amended by adding
13 thereto a new section to read as follows:

14 *In administering the provisions of section 56.1 of chapter 397,*
15 *Statutes of Nevada 1955, which is included in NRS as NRS*
16 *372.283, the Department shall construe the term:*

17 1. *“Durable medical equipment” to mean equipment,*
18 *including any repair and replacement parts therefor, which:*

19 (a) *Can withstand repeated use;*

20 (b) *Is primarily and customarily used to serve a medical*
21 *purpose;*

22 (c) *Generally is not useful to a person in the absence of illness*
23 *or injury; and*

24 (d) *Is not worn in or on the body.*

25 2. *“Mobility-enhancing equipment” to mean equipment,*
26 *including any repair and replacement parts therefor, which:*

27 (a) *Is primarily and customarily used to provide or increase*
28 *the ability to move from one place to another and which is*
29 *appropriate for use either in a home or a motor vehicle;*

30 (b) *Is not generally used by persons with normal mobility; and*

31 (c) *Does not include any motor vehicle or equipment on a*
32 *motor vehicle normally provided by a manufacturer of motor*
33 *vehicles.*

34 **Sec. 18.** Chapter 372 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *In administering the provisions of section 56.1 of chapter 397,*
37 *Statutes of Nevada 1955, which is included in NRS as NRS*
38 *372.283, the Department shall construe the term:*

39 1. *“Hearing aid” to:*

40 (a) *Mean:*

41 (1) *An instrument or device with an electronic component*
42 *designed to improve human hearing, which is worn in or affixed*
43 *behind the ear;*

44 (2) *A device that is surgically implanted into the cochlea to*
45 *improve human hearing; or*



* S B 1 7 2 R 1 *

(3) *A device for the amplification of a telephone which is designed for use by an individual; and*

(b) *Exclude:*

(1) *Any instrument or device designed to be worn on any part of the body other than in or on the ear; and*

(2) *Any device or system designed to be used simultaneously by more than one individual.*

2. *“Hearing-aid accessory” to:*

(a) *Mean a component of or an attachment or accessory for a hearing aid, including any neck loop, cord, mold, tubing, ear hook and remote control for a hearing aid; and*

(b) *Exclude any battery for a hearing aid and any accessory designed to be used only with an item that does not constitute a hearing aid.*

Sec. 19. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of NRS 374.287, the Department shall construe the term:

1. *“Durable medical equipment” to mean equipment, including any repair and replacement parts therefor, which:*

(a) *Can withstand repeated use;*

(b) *Is primarily and customarily used to serve a medical purpose;*

(c) *Generally is not useful to a person in the absence of illness or injury; and*

(d) *Is not worn in or on the body.*

2. *“Mobility-enhancing equipment” to mean equipment, including any repair and replacement parts therefor, which:*

(a) *Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;*

(b) *Is not generally used by persons with normal mobility; and*

(c) *Does not include any motor vehicle or equipment on a motor vehicle normally provided by a manufacturer of motor vehicles.*

Sec. 20. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of NRS 374.287, the Department shall construe the term:

1. *“Hearing aid” to:*

(a) *Mean:*

(1) *An instrument or device with an electronic component designed to improve human hearing, which is worn in or affixed behind the ear;*



* S B 1 7 2 R 1 *

(2) *A device that is surgically implanted into the cochlea to improve human hearing; or*

(3) *A device for the amplification of a telephone which is designed for use by an individual; and*

(b) *Exclude:*

(1) *Any instrument or device designed to be worn on any part of the body other than in or on the ear; and*

(2) *Any device or system designed to be used simultaneously by more than one individual.*

2. *"Hearing-aid accessory" to:*

(a) *Mean a component of or an attachment or accessory for a hearing aid, including any neck loop, cord, mold, tubing, ear hook and remote control for a hearing aid; and*

(b) *Exclude any battery for a hearing aid and any accessory designed to be used only with an item that does not constitute a hearing aid.*

Sec. 21. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis ~~and~~ *and durable medical equipment if prescribed by a licensed provider of health care acting within his scope of practice.*

(d) *Canes, crutches, manual or motorized wheelchairs or scooters that enhance the ability of a person to move, and other mobility-enhancing equipment if prescribed by a licensed provider of health care acting within his scope of practice.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:



(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 22. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) Hearing aids and hearing-aid accessories.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or



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1 affliction of the human body and which is commonly recognized as
2 a substance or preparation intended for such use. The term includes
3 splints, bandages, pads, compresses and dressings.

4 (b) "Medicine" does not include:

5 (1) Any auditory, ophthalmic or ocular device or appliance.

6 (2) Articles which are in the nature of instruments, crutches,
7 canes, devices or other mechanical, electronic, optical or physical
8 equipment.

9 (3) Any alcoholic beverage, except where the alcohol merely
10 provides a solution in the ordinary preparation of a medicine.

11 (4) Braces or supports, other than those prescribed or applied
12 by a licensed provider of health care, within his scope of practice,
13 for human use.

14 3. Insulin furnished by a registered pharmacist to a person for
15 treatment of diabetes as directed by a physician shall be deemed to
16 be dispensed on a prescription within the meaning of this section.

17 **Sec. 23.** 1. This section and sections 1 to 16, inclusive, of
18 this act become effective on October 1, 2007.

19 2. Sections 17, 19 and 21 of this act become effective on
20 January 1, 2009, only if the proposal submitted pursuant to sections
21 1 to 8, inclusive, of this act is approved by the voters at the General
22 Election on November 4, 2008.

23 3. Sections 18, 20 and 22 of this act become effective on
24 January 1, 2009, only if the proposal submitted pursuant to sections
25 9 to 16, inclusive, of this act is approved by the voters at the General
26 Election on November 4, 2008.

