

Amendment No. 435

Senate Amendment to Senate Bill No. 334	(BDR 32-262)
Proposed by: Senate Committee on Revenue and Economic Development	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF/BJE



Date: 4/19/2015

S.B. No. 334—Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids, hearing aid accessories, and ophthalmic or ocular devices or appliances from sales and use taxes and analogous taxes. (BDR 32-262)



SENATE BILL NO. 334—SENATORS ROBERSON, KIECKHEFER, BROWER, HARDY,
GUSTAVSON; FARLEY, GOICOECHEA, HARRIS AND LIPPARELLI

MARCH 16, 2015

Referred to Committee on Revenue and Economic Development

SUMMARY—Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids, hearing aid accessories, and ophthalmic or ocular devices or appliances from sales and use taxes and analogous taxes. (BDR 32-262)

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

~

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 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 ophthalmic or ocular devices or appliances; providing for the exemptions from certain analogous taxes if the voters approve these amendments to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Sales and Use Tax Act of 1955 (part of chapter 372 of NRS) was approved by the voters by a referendum and therefore 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)

Sections 2-9 of this bill require the submission of a question to the voters at the 2016 General Election of 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 26** of this bill construes the terms used in the exemption. **Sections 28 and 31** of this bill amend the Local School Support Tax Law (chapter 374 of NRS) to provide an identical exemption. These tax exemptions become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2016.

Sections 10-17 of this bill require the submission of a question to the voters at the 2016 General Election of whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for hearing aids and hearing aid accessories. **Section 27** of this bill construes the

terms used in the exemption. **Sections 29 and 32** of this bill amend the Local School Support Tax Law to provide an identical exemption. These tax exemptions become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2016.

Sections 18-25 of this bill require the submission of a question to the voters at the 2016 General Election of whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for ophthalmic or ocular devices or appliances prescribed by a physician or optometrist. **Sections 30 and 33** of this bill amend the Local School Support Tax Law to provide an identical exemption. These tax exemptions become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2016.

Any amendment to the Local School Support Tax Law also applies 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)

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

Section 1. The Legislature hereby finds that each exemption provided by this act from any excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 2. At the General Election on November 8, 2016, 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. 3. 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. 4. 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 8, 2016, 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 durable~~

(d) Durable medical equipment if prescribed by a licensed provider of health care acting within his or her scope of practice.

~~(e)~~ (e) 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 or her scope of practice.

~~(f)~~ (f) 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. 2. This act becomes effective on January 1, 2017, and expires by limitation on December 31, 2026.

Sec. 5. 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 durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care?

Yes ☐ No ☐

Sec. 6. 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 durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of 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. 7. 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, 2017, and expires by limitation on December 31, 2026. 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. 8. All general election laws not inconsistent with this act are applicable.

Sec. 9. 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. 10. At the General Election on November 8, 2016, 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. 11. 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. 12. 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 8, 2016, 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, 2017, and expires by limitation on December 31, 2026.

Sec. 13. 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. 14. 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. 15. 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, 2017, and expires by limitation on December 31, 2026. 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. 16. All general election laws not inconsistent with this act are applicable.

Sec. 17. 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. 18. At the General Election on November 8, 2016, 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. 19. 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. 20. 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 8, 2016, 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:

1 Section 1. Section 15 of the above-entitled Act, being chapter 397,
2 Statutes of Nevada 1955, at page 765, is hereby amended to read as
3 follows:

4 Sec. 15. 1. "Retailer" includes:

5 (a) Every seller who makes any retail sale or sales of tangible
6 personal property, and every person engaged in the business of making
7 retail sales at auction of tangible personal property owned by the person
8 or others.

9 (b) Every person engaged in the business of making sales for
10 storage, use or other consumption or in the business of making sales at
11 auction of tangible personal property owned by the person or others for
12 storage, use or other consumption.

13 (c) Every person making more than two retail sales of tangible
14 personal property during any 12-month period, including sales made in
15 the capacity of assignee for the benefit of creditors, or receiver or
16 trustee in bankruptcy.

17 2. When the Tax Commission determines that it is necessary for
18 the efficient administration of this chapter to regard any salesmen,
19 representatives, peddlers or canvassers as the agents of the dealers,
20 distributors, supervisors or employers under whom they operate or from
21 whom they obtain the tangible personal property sold by them,
22 irrespective of whether they are making sales on their own behalf or on
23 behalf of such dealers, distributors, supervisors or employers, the Tax
24 Commission may so regard them and may regard the dealers,
25 distributors, supervisors or employers as retailers for purposes of this
26 chapter.

27 ~~3. A licensed optometrist or physician and surgeon is a consumer~~
28 ~~of, and shall not be considered, a retailer within the provisions of this~~
29 ~~chapter, with respect to the ophthalmic materials used or furnished by~~
30 ~~him in the performance of his professional services in the diagnosis,~~
31 ~~treatment or correction of conditions of the human eye, including the~~
32 ~~adaptation of lenses or frames for the aid thereof.]~~

33 Sec. 2. Section 56.1 of the above-entitled Act, being chapter 397,
34 Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada
35 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985,
36 at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at
37 page 1007, is hereby amended to read as follows:

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

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

45 (b) Appliances and supplies relating to an ostomy.

46 (c) Products for hemodialysis.

47 (d) *Any ophthalmic or ocular device or appliance prescribed by a*
48 *physician or optometrist.*

49 (e) Medicines:

50 (1) Prescribed for the treatment of a human being by a person
51 authorized to prescribe medicines, and dispensed on a prescription
52 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. 3. This act becomes effective on January 1, 2017, and expires by limitation on December 31, 2026.

Sec. 21. 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 ophthalmic or ocular devices or appliances prescribed by a physician or optometrist?

Yes ☐ No ☐

Sec. 22. 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 ophthalmic or ocular devices or appliances prescribed by a physician or optometrist. 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. 23. 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, 2017, and expires by limitation on December 31, 2026. 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.

1 **Sec. 24.** All general election laws not inconsistent with this act are
2 applicable.

3 **Sec. 25.** Any informalities, omissions or defects in the content or making of
4 the publications, proclamations or notices provided for in this act and by the general
5 election laws under which this election is held must be so construed as not to
6 invalidate the adoption of the act by a majority of the registered voters voting on
7 the question if it can be ascertained with reasonable certainty from the official
8 returns transmitted to the Office of the Secretary of State whether the proposed
9 amendment was adopted by a majority of those registered voters.

10 **Sec. 26.** Chapter 372 of NRS is hereby amended by adding thereto a new
11 section to read as follows:

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

15 1. *“Durable medical equipment” to mean equipment, including any repair*
16 *and replacement parts therefor and components or attachments used in*
17 *conjunction therewith, which:*

18 (a) *Can withstand repeated use;*

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

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

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

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

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

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

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

30 **Sec. 27.** Chapter 372 of NRS is hereby amended by adding thereto a new
31 section to read as follows:

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

35 1. *“Hearing aid” to:*

36 (a) *Mean:*

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

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

41 (3) *A device for the amplification of a telephone which is designed for*
42 *use by a person; and*

43 (b) *Exclude:*

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

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

48 2. *“Hearing aid accessory” to:*

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

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

1 **Sec. 28.** Chapter 374 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

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

5 1. *“Durable medical equipment” to mean equipment, including any repair*
6 *and replacement parts therefor and components or attachments used in*
7 *conjunction therewith, which:*

8 (a) *Can withstand repeated use;*

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

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

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

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

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

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

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

20 **Sec. 29.** Chapter 374 of NRS is hereby amended by adding thereto a new
21 section to read as follows:

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

24 1. *“Hearing aid” to:*

25 (a) *Mean:*

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

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

30 (3) *A device for the amplification of a telephone which is designed for*
31 *use by a person; and*

32 (b) *Exclude:*

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

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

37 2. *“Hearing aid accessory” to:*

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

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

43 **Sec. 30.** NRS 374.060 is hereby amended to read as follows:

44 374.060 1. *“Retailer” includes:*

45 (a) Every seller who makes any retail sale or sales of tangible personal
46 property, and every person engaged in the business of making retail sales at auction
47 of tangible personal property owned by the person or others.

48 (b) Every person engaged in the business of making sales for storage, use or
49 other consumption or in the business of making sales at auction of tangible personal
50 property owned by the person or others for storage, use or other consumption.

51 (c) Every person making more than two retail sales of tangible personal
52 property during any 12-month period, including sales made in the capacity of
53 assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

~~[3. A licensed optometrist or physician is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him or her in the performance of his or her professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.]~~

Sec. 31. 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 or her scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis. ~~(and durable)~~

(d) Durable medical equipment if prescribed by a licensed provider of health care acting within his or her scope of practice.

~~(e)~~ ***(e) 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 or her scope of practice.***

~~(f)~~ ***(f) 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 or her 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 or her scope of practice, for human use.

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

4 **Sec. 32.** NRS 374.287 is hereby amended to read as follows:

5 374.287 1. There are exempted from the taxes imposed by this chapter the
6 gross receipts from sales and the storage, use or other consumption of:

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

10 (b) Appliances and supplies relating to an ostomy.

11 (c) Products for hemodialysis.

12 (d) Medicines:

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

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

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

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

22 *(e) Hearing aids and hearing aid accessories.*

23 2. As used in this section:

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

29 (b) "Medicine" does not include:

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

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

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

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

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

40 **Sec. 33.** NRS 374.287 is hereby amended to read as follows:

41 374.287 1. There are exempted from the taxes imposed by this chapter the
42 gross receipts from sales and the storage, use or other consumption of:

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

46 (b) Appliances and supplies relating to an ostomy.

47 (c) Products for hemodialysis.

48 *(d) Any ophthalmic or ocular device or appliance prescribed by a physician
49 or optometrist.*

50 *(e) Medicines:*

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

(2) Furnished by a licensed physician, dentist or podiatric physician to his or her 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 or her 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. 34. 1. This section and sections 1 to 25, inclusive, of this act become effective on October 1, 2015.

2. Sections 26, 28 and 31 of this act become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the proposal submitted pursuant to sections 2 to 9, inclusive, of this act is approved by the voters at the General Election on November 8, 2016.

3. Sections 27, 29 and 32 of this act become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the proposal submitted pursuant to sections 10 to 17, inclusive, of this act is approved by the voters at the General Election on November 8, 2016.

4. Sections 30 and 33 of this act become effective on January 1, 2017, and expire by limitation on December 31, 2026, only if the proposal submitted pursuant to sections 18 to 25, inclusive, of this act is approved by the voters at the General Election on November 8, 2016.