

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 849**

Introduced by Cavanaugh, J., 9.

Read first time January 08, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2704.09, Reissue Revised Statutes of Nebraska; to provide an  
3 exemption from sales and use taxes for over-the-counter drugs; to  
4 provide an operative date; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1       **Section 1.** Section 77-2704.09, Reissue Revised Statutes of Nebraska,  
2    is amended to read:

3           77-2704.09 (1) Sales and use taxes shall not be imposed on the gross  
4    receipts from the sale, lease, or rental of and the storage, use, or  
5    other consumption in this state of (a) insulin, (b) mobility enhancing  
6    equipment and drugs, ~~not including over-the-counter drugs,~~ when sold for  
7    a patient's use under a prescription, (c) over-the-counter drugs, and (d)  
8    (e) the following when sold for a patient's use under a prescription and  
9    which are of the type eligible for coverage under the medical assistance  
10   program established pursuant to the Medical Assistance Act: Durable  
11   medical equipment; home medical supplies; prosthetic devices; oxygen; and  
12   oxygen equipment.

13           (2) For purposes of this section:

14           (a) Drug means a compound, substance, preparation, and component of  
15    a compound, substance, or preparation, other than food and food  
16    ingredients, dietary supplements, or alcoholic beverages:

17           (i) Recognized in the official United States Pharmacopoeia, official  
18    Homeopathic Pharmacopoeia of the United States, or official National  
19    Formulary, and any supplement to any of them;

20           (ii) Intended for use in the diagnosis, cure, mitigation, treatment,  
21    or prevention of disease; or

22           (iii) Intended to affect the structure or any function of the body;

23           (b) Durable medical equipment means equipment which can withstand  
24    repeated use, is primarily and customarily used to serve a medical  
25    purpose, generally is not useful to a person in the absence of illness or  
26    injury, is appropriate for use in the home, and is not worn in or on the  
27    body. Durable medical equipment includes repair and replacement parts for  
28    such equipment;

29           (c) Home medical supplies means supplies primarily and customarily  
30    used to serve a medical purpose which are appropriate for use in the home  
31    and are generally not useful to a person in the absence of illness or

1      injury;

2            (d) Mobility enhancing equipment means equipment which is primarily  
3      and customarily used to provide or increase the ability to move from one  
4      place to another, which is not generally used by persons with normal  
5      mobility, and which is appropriate for use either in a home or a motor  
6      vehicle. Mobility enhancing equipment includes repair and replacement  
7      parts for such equipment. Mobility enhancing equipment does not include  
8      any motor vehicle or equipment on a motor vehicle normally provided by a  
9      motor vehicle manufacturer;

10           (e) Over-the-counter drug means a drug that contains a label that  
11      identifies the product as a drug as required by 21 C.F.R. 201.66, as such  
12      regulation existed on January 1, 2026 2003. The over-the-counter drug  
13      label includes a drug facts panel or a statement of the active  
14      ingredients with a list of those ingredients contained in the compound,  
15      substance, or preparation;

16           (f) Oxygen equipment means oxygen cylinders, cylinder transport  
17      devices including sheaths and carts, cylinder studs and support devices,  
18      regulators, flowmeters, tank wrenches, oxygen concentrators, liquid  
19      oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,  
20      nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and  
21      accessories;

22           (g) Prescription means an order, formula, or recipe issued in any  
23      form of oral, written, electronic, or other means of transmission by a  
24      duly licensed practitioner authorized under the Uniform Credentialing  
25      Act; and

26           (h) Prosthetic devices means a replacement, corrective, or  
27      supportive device worn on or in the body to artificially replace a  
28      missing portion of the body, prevent or correct physical deformity or  
29      malfunction, or support a weak or deformed portion of the body, and  
30      includes any supplies used with such device and repair and replacement  
31      parts.

1           **Sec. 2.** This act becomes operative on October 1, 2026.

2           **Sec. 3.** Original section 77-2704.09, Reissue Revised Statutes of  
3   Nebraska, is repealed.