

**PROPOSED REGULATION OF THE
BOARD OF STATE PRISON COMMISSIONERS**

LCB File No. R097-24

May 22, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: § 1, NRS 209.111 and 209.131; § 2, NRS 209.111, 209.131 and 209.235; § 3, NRS 209.111, 209.131, 209.221 and 209.235; § 4, NRS 209.111, 209.131 and NRS 209.241; § 5, NRS 209.111, 209.131, 209.246, 209.247 and 209.2473.

A REGULATION relating to offenders; providing maximum markups for certain types of products available for purchase in the commissary of a facility or institution of the Department of Corrections; prescribing fees and charges for certain telecommunications and financial services; prescribing the amount of certain charges to the individual account of an offender in the Prisoners' Personal Property Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to: (1) purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution or facility of the Department of Corrections; and (2) prescribe regulations for carrying on the business of the Board and the Department. (NRS 209.111) Existing law requires the Director of the Department, with the approval of the Board, to adopt regulations to be instituted in each institution or facility which govern the operation of a commissary in the institution or facility. Existing law prohibits the Director, in adopting such regulations, from adopting regulations which authorize the markup of the price of a personal hygiene product sold at the commissary. (NRS 209.235) **Section 1** of this regulation: (1) prohibits the Department from charging or authorizing a vendor to charge a markup on the price of a personal hygiene product; and (2) prescribes the maximum markups that the Department may charge or authorize a vendor to impose on certain types of products which are available for purchase at the commissary.

Existing law: (1) requires the Director, with the approval of the Board, to adopt regulations authorizing an offender to possess, have in his or her custody or control and use an authorized telecommunications device for certain purposes; and (2) authorizes the Director, with the approval of the Board, to adopt regulations to authorize an offender to use an authorized telecommunications device for any purpose other than those set forth in existing law. (NRS 209.417) Existing law also authorizes the Director, with the approval of the Board, to establish by regulation a charge on the use by offenders of videoconferencing equipment for conducting visits to defray the costs relating to the operation and maintenance of the equipment. (NRS

209.221) Existing law requires the Director, with the approval of the Board, to establish by regulation criteria for a reasonable deduction from money credited to the account of an offender to repay the costs incurred by the Department on behalf of the offender for telephone calls charged to the Department. (NRS 209.246) **Section 3** of this regulation sets forth the fees that will be charged to an offender related to telephone calls and his or her use of an authorized telecommunications device. **Section 3** also authorizes any vendor which provides telecommunications services for offenders to bill an offender for certain taxes and fees, in addition to the charges set forth in **section 3**.

Existing law creates the Prisoners' Personal Property Fund as a trust fund. Existing law: (1) authorizes the Director to accept certain money and valuables belonging to an offender at the time of his or her incarceration or received or earned by an offender during the incarceration of the offender; and (2) requires the Director to deposit such money in the Fund. Existing law also requires an offender to deposit all money that the offender receives into his or her individual account in the Fund. (NRS 209.241) **Section 4** of this regulation sets forth: (1) the fees that a person depositing money for use by an offender will be charged; and (2) fees related to the management of the financial accounts of the offender.

Existing law authorizes the Director to deduct not more than 25 percent of money deposited in the individual account of an offender in the Prisoners' Personal Property Fund from any source other than the offender's wages and provides the order of priority for such a deduction to be made. Fourth, in such order, is a deduction made to repay or defray certain costs, including any cost for: (1) state property willfully damaged, destroyed or lost; (2) medical examination, diagnosis or treatment for certain injuries; (3) the search and apprehension of an offender when he or she escapes or attempts to escape; (4) the funeral for an offender; (5) certain costs related to litigation; (6) items related to the offender's work; and (7) the replacement of an identification card or prepaid ticket for bus transportation issued to the offender by the Department. (NRS 209.246, 209.247) **Section 5** of this regulation sets forth the amounts that the Department will charge the individual account of an offender for such expenses.

Section 1. Chapter 209 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *The Department may not charge or authorize a vendor to charge:*

1. Any markup on the price of a personal hygiene product sold in the commissary of an institution or facility; or

2. A markup that exceeds the following percentages for items sold in the commissary of an institution or facility:

<i>Product Type</i>	<i>Maximum Markup</i>
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<i>Product Type</i>	<i>Maximum Markup</i>
<i>Clothing</i>	<i>35 percent</i>
<i>Food</i>	<i>35 percent</i>
<i>Religious</i>	<i>10 Percent</i>
<i>Vending Machine</i>	<i>35 Percent</i>

Sec. 3. 1. *The Department or a vendor authorized by the Department to provide telecommunications services to offenders shall charge an offender \$0.11 per minute for telephone calls.*

2. *The Department or a vendor authorized by the Department to provide telecommunications services to offenders shall charge an offender the following fees related to the use of an authorized telecommunications device pursuant to NRS 209.417:*

(a) Costs relating to the use of services accessible through the authorized telecommunications device and the replacement of accessories for the authorized telecommunications device:

<i>Fee</i>	<i>Charge</i>
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<i>Fee</i>	<i>Charge</i>
<i>Standard usage fees including, without limitation, fees for standard outgoing messages sent by an offender, music and media streaming services and games</i>	<i>\$0.05 per minute</i>
<i>Bulk per-minute purchases</i>	<i>\$0.01 per minute</i>
<i>Video visitation services</i>	<i>\$0.25 per minute</i>
<i>Replacement headphones</i>	<i>\$3.99</i>
<i>Replacement charger</i>	<i>\$7.99</i>
<i>External electronic mail from family of offender</i>	<i>\$0.20 per written message</i>
<i>Photo message</i>	<i>\$0.20 per photo attached</i>
<i>Video message</i>	<i>\$0.60 per message</i>
<i>Premium movie subscriptions</i>	<i>\$19.99 per subscription</i>

(b) Ancillary service charges:

<i>Fee</i>	<i>Charge</i>
<i>Automated payment fee for credit card, debit card and billing processing</i>	<i>\$3.00 per transaction</i>
<i>Fees for single-call and related services through a live agent</i>	<i>\$5.95 per transaction plus \$0.10 per minute</i>

<i>Fee</i>	<i>Charge</i>
<i>Fees for single-call and related services through an automated payment system</i>	<i>\$3.00 per transaction plus \$0.10 per minute</i>
<i>Fee for other services through a live agent</i>	<i>\$5.95 per transaction</i>
<i>Paper statement fee</i>	<i>\$2.00 per transaction</i>
<i>Third-party financial transaction fee, except for transactions made through an automated payment system</i>	<i>\$5.95 per transaction</i>
<i>Third-party financial transaction fee for transactions made through an automated payment system</i>	<i>\$3.00 per transaction</i>

3. In addition to the fees set forth in this section, any vendor authorized by the Department to provide telecommunications services to offenders may, except where prohibited by federal law, bill an offender for any applicable state, local and federal taxes, fees and surcharges, including, without limitation, excise taxes, sales taxes, municipal surcharges, regulatory surcharges, gross receipts tax and any fees or charges related to the universal service program created pursuant to 47 U.S.C. § 254.

Sec. 4. 1. The Department or a vendor authorized by the Department to provide financial services for offenders shall charge a person making a deposit of money for use by an offender the following fees:

(a) For general deposits at a location other than a walk-in retail location:

<i>Deposit amount</i>	<i>Fee for cash payment</i>	<i>Fee for credit or debit card payment</i>
<i>\$0.01 - \$9.99</i>	<i>\$2.50</i>	<i>\$0.90</i>
<i>\$10.00 - \$19.99</i>	<i>\$2.50</i>	<i>\$1.75</i>
<i>\$20.00 - \$99.99</i>	<i>\$2.50</i>	<i>\$5.95</i>
<i>\$100.00 - \$199.99</i>	<i>\$2.50</i>	<i>\$6.95</i>
<i>\$200.00 - \$300.00</i>	<i>\$2.50</i>	<i>\$7.95</i>

(b) For deposits at a walk-in retail location:

<i>Deposit amount</i>	<i>Fee for cash payment</i>	<i>Fee for credit or debit card payment</i>
<i>\$0.01 - \$300.00</i>	<i>\$4.95</i>	<i>\$4.95</i>

(c) For deposits for the exclusive use of posting bail:

<i>Deposit amount</i>	<i>Fee for cash payment</i>	<i>Fee for credit or debit card payment</i>
<i>\$0.01 - \$100.00</i>	<i>\$5.00</i>	<i>\$5.00 plus 5 percent of the deposit amount</i>
<i>\$100.01 - \$2,999.99</i>	<i>\$5.00 base amount plus an additional \$5.00 per \$100 deposited</i>	<i>\$5.00 plus 5 percent of the deposit amount</i>

2. *Except as otherwise provided in NRS 209.241, the Department or a vendor authorized by the Department to provide financial services for offenders shall charge an offender the following fees in connection with the management of the financial accounts of the offender:*

<i>Item or Service</i>	<i>Charge</i>
<i>Copy of a check</i>	<i>\$2.00 per check</i>
<i>Statement fees</i>	<i>\$2.00 per statement</i>

Sec. 5. 1. *The Department shall charge the individual account of an offender in the Prisoners' Personal Property Fund for the direct reimbursement of an expense for the following:*

(a) Medical examination, diagnosis or treatment for injuries:

(1) Inflicted by the offender upon himself or herself or other offenders; or

(2) Which occur during voluntary recreational activities.

(b) State property willfully damaged, destroyed or lost by the offender during his or her incarceration, including, without limitation, damage to the building and grounds of the institution or facility.

(c) Damage to mattresses, clothing, towels or bedding.

(d) Costs for the search for and apprehension of the offender during an escape or attempt to escape.

(e) Replacement of a prepaid ticket for bus transportation issued to the offender by the Department.

(f) Birth certificates.

(g) Items related to the offender's work, including, without limitation, clothing and tools.

(h) Legal supplies.

2. The Department shall charge the individual account of an offender in the Prisoners'

Personal Property Fund for an item or service identified in this subsection the following amounts:

<i>Item or Service</i>	<i>Charge</i>
<i>Cremation or burial costs</i>	<i>\$950.00</i>
<i>Drug test or toxicology test</i>	<i>\$8.50 per test</i>
<i>Health card</i>	<i>\$35.00</i>
<i>Photocopying of legal documents</i>	<i>\$0.10 per copy</i>
<i>Postage for items relating to litigation</i>	<i>United States Postal Service rate</i>
<i>Replacement of an identification card</i>	<i>\$5.00</i>