

Amendment No. 458

Senate Amendment to Senate Bill No. 105	(BDR 18-320)
<b>Proposed by:</b> Senate Committee on Government Affairs	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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.

SLD/HAC



Date: 4/21/2023

S.B. No. 105—Revises provisions relating to the Department of Corrections.  
(BDR 18-320)





SENATE BILL NO. 105—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE JOINT INTERIM STANDING  
COMMITTEE ON JUDICIARY)

PREFILED FEBRUARY 2, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the Department of Corrections.  
(BDR 18-320)

FISCAL NOTE: Effect on Local Government: No.  
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 the Department of Corrections; making the Department subject to the provisions of Nevada Administrative Procedure Act ~~under certain circumstances;~~ for purposes of adopting certain regulations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law enacts the Nevada Administrative Procedure Act, which establishes  
2 procedural requirements for the adoption of regulations and adjudication of contested cases by  
3 certain agencies of the Executive Department of the State Government. (Chapter 233B of  
4 NRS) With certain exceptions, existing law exempts the Department of Corrections from the  
5 requirements prescribed by the Act. (NRS 233B.039) **Section 1** of this bill ~~removes~~ revises  
6 this exemption and makes the Department of Corrections subject to the Act for the purpose of  
7 adopting regulations ~~but not with respect to contested cases. Sections 2 and 3 of this bill~~  
8 ~~make conforming changes related to the removal of the exemption in section 1.]~~ relating to  
9 fiscal policy, correspondence with inmates and visitation with inmates of the  
10 Department. **Section 4** of this bill provides that the regulations currently adopted by the  
11 Department remain in effect until replaced by new regulations adopted by the Department in  
12 accordance with the Act.

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

1 **Section 1.** NRS 233B.039 is hereby amended to read as follows:  
2 233B.039 1. The following agencies are entirely exempted from the  
3 requirements of this chapter:  
4 (a) The Governor.  
5 (b) Except as otherwise provided in subsection 7 and NRS 209.221 and  
6 209.2473, the Department of Corrections.  
7 (c) The Nevada System of Higher Education.

1 ~~(d)~~ ~~(e)~~ The Office of the Military.

2 ~~(e)~~ ~~(d)~~ The Nevada Gaming Control Board.

3 ~~(f)~~ ~~(e)~~ Except as otherwise provided in NRS 368A.140 and 463.765, the  
4 Nevada Gaming Commission.

5 ~~(g)~~ ~~(f)~~ Except as otherwise provided in NRS 425.620, the Division of  
6 Welfare and Supportive Services of the Department of Health and Human Services.

7 ~~(h)~~ ~~(g)~~ Except as otherwise provided in NRS 422.390, the Division of Health  
8 Care Financing and Policy of the Department of Health and Human Services.

9 ~~(i)~~ ~~(h)~~ Except as otherwise provided in NRS 533.365, the Office of the State  
10 Engineer.

11 ~~(j)~~ ~~(i)~~ The Division of Industrial Relations of the Department of Business  
12 and Industry acting to enforce the provisions of NRS 618.375.

13 ~~(k)~~ ~~(j)~~ The Administrator of the Division of Industrial Relations of the  
14 Department of Business and Industry in establishing and adjusting the schedule of  
15 fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

16 ~~(l)~~ ~~(k)~~ The Board to Review Claims in adopting resolutions to carry out its  
17 duties pursuant to NRS 445C.310.

18 ~~(m)~~ ~~(l)~~ The Silver State Health Insurance Exchange.

19 ~~(n)~~ ~~(m)~~ The Cannabis Compliance Board.

20 2. Except as otherwise provided in subsection 5 and NRS 391.323, the  
21 Department of Education, the Board of the Public Employees' Benefits Program  
22 and the Commission on Professional Standards in Education are subject to the  
23 provisions of this chapter for the purpose of adopting regulations but not with  
24 respect to any contested case.

25 3. The special provisions of:

26 (a) Chapter 612 of NRS for the adoption of an emergency regulation or the  
27 distribution of regulations by and the judicial review of decisions of the  
28 Employment Security Division of the Department of Employment, Training and  
29 Rehabilitation;

30 (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested  
31 claims;

32 (c) Chapter 91 of NRS for the judicial review of decisions of the Administrator  
33 of the Securities Division of the Office of the Secretary of State; and

34 (d) NRS 90.800 for the use of summary orders in contested cases,  
35 ➤ prevail over the general provisions of this chapter.

36 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do  
37 not apply to the Department of Health and Human Services in the adjudication of  
38 contested cases involving the issuance of letters of approval for health facilities and  
39 agencies.

40 5. The provisions of this chapter do not apply to:

41 (a) Any order for immediate action, including, but not limited to, quarantine  
42 and the treatment or cleansing of infected or infested animals, objects or premises,  
43 made under the authority of the State Board of Agriculture, the State Board of  
44 Health, or any other agency of this State in the discharge of a responsibility for the  
45 preservation of human or animal health or for insect or pest control;

46 (b) An extraordinary regulation of the State Board of Pharmacy adopted  
47 pursuant to NRS 453.2184;

48 (c) A regulation adopted by the State Board of Education pursuant to NRS  
49 388.255 or 394.1694;

50 (d) The judicial review of decisions of the Public Utilities Commission of  
51 Nevada;

1 (e) The adoption, amendment or repeal of policies by the Rehabilitation  
2 Division of the Department of Employment, Training and Rehabilitation pursuant  
3 to NRS 426.561 or 615.178;

4 (f) The adoption or amendment of a rule or regulation to be included in the  
5 State Plan for Services for Victims of Crime by the Department of Health and  
6 Human Services pursuant to NRS 217.130;

7 (g) The adoption, amendment or repeal of rules governing the conduct of  
8 contests and exhibitions of unarmed combat by the Nevada Athletic Commission  
9 pursuant to NRS 467.075;

10 (h) The adoption, amendment or repeal of regulations by the Director of the  
11 Department of Health and Human Services pursuant to NRS 447.335 to 447.350,  
12 inclusive;

13 (i) The adoption, amendment or repeal of standards of content and performance  
14 for courses of study in public schools by the Council to Establish Academic  
15 Standards for Public Schools and the State Board of Education pursuant to NRS  
16 389.520;

17 (j) The adoption, amendment or repeal of the statewide plan to allocate money  
18 from the Fund for a Resilient Nevada created by NRS 433.732 established by the  
19 Department of Health and Human Services pursuant to paragraph (b) of subsection  
20 1 of NRS 433.734; or

21 (k) The adoption or amendment of a data request by the Commissioner of  
22 Insurance pursuant to NRS 687B.404.

23 6. The State Board of Parole Commissioners is subject to the provisions of  
24 this chapter for the purpose of adopting regulations but not with respect to any  
25 contested case.

26 **7. *The Department of Corrections is subject to the provisions of this chapter***  
27 ***for the purpose of adopting regulations ~~but not with respect to any contested~~***  
28 ***case, relating to fiscal policy, correspondence with inmates and visitation with***  
29 ***inmates of the Department of Corrections.***

30 **Sec. 2. [NRS 209.221 is hereby amended to read as follows:**

31 ~~209.221 1. The Offenders' Store Fund is hereby created as a special revenue~~  
32 ~~fund. All money received for the benefit of offenders through contributions, and~~  
33 ~~from other sources not otherwise required to be deposited in another fund, must be~~  
34 ~~deposited in the Offenders' Store Fund.~~

35 ~~2. The Director shall:~~

36 ~~(a) Keep, or cause to be kept, a full and accurate account of the Fund;~~

37 ~~(b) Submit reports to the Board relative to money in the Fund as may be~~  
38 ~~required from time to time; and~~

39 ~~(c) Submit a monthly report to the offenders of the amount of money in the~~  
40 ~~Fund by posting copies of the report at locations accessible to offenders generally~~  
41 ~~or by delivery of copies to the appropriate representatives of the offenders if any are~~  
42 ~~selected.~~

43 ~~3. Except as otherwise provided in subsections 4 to 10, inclusive, money in~~  
44 ~~the Offenders' Store Fund, except interest earned upon it, must be expended for the~~  
45 ~~welfare and benefit of all offenders or for any other purpose authorized by the~~  
46 ~~Legislature.~~

47 ~~4. If necessary to cover a shortfall of money in the Prisoners' Personal~~  
48 ~~Property Fund, the Director may, after obtaining the approval of the Interim~~  
49 ~~Finance Committee, authorize the State Controller to transfer money from the~~  
50 ~~Offenders' Store Fund to the Prisoners' Personal Property Fund, and the State~~  
51 ~~Controller shall make the transfer.~~

52 ~~5. If an offender has insufficient money in his or her individual account in the~~  
53 ~~Prisoners' Personal Property Fund to repay or defray costs assessed to the offender~~

~~1 pursuant to NRS 209.246, the Director shall authorize the State Controller to  
2 transfer sufficient money from the Offenders' Store Fund to the appropriate account  
3 in the State General Fund to pay costs remaining unpaid, and the State Controller  
4 shall make the transfer. Any money so transferred must be accounted for separately.  
5 The Director shall cause the Offenders' Store Fund to be reimbursed from the  
6 offender's individual account in the Prisoners' Personal Property Fund, as money  
7 becomes available.~~

~~8 — 6. If the Department incurs costs related to state property that has been  
9 willfully damaged, destroyed or lost or incurs costs related to medical examination,  
10 diagnosis or treatment for an injury to an offender, the Director may authorize the  
11 State Controller to transfer money from the Offenders' Store Fund to the  
12 appropriate account in the State General Fund to repay or defray those costs if:~~

~~13 — (a) The Director has reason to believe that an offender caused the damage,  
14 destruction, loss or injury; and~~

~~15 — (b) The identity of the offender is unknown or cannot be determined by the  
16 Director with reasonable certainty.~~

~~17 — The State Controller shall make the transfer if authorized by the Director. Any  
18 money transferred must be accounted for separately. If the identity of the offender  
19 is determined after money has been transferred, the Director shall cause the  
20 Offenders' Store Fund to be reimbursed from the offender's individual account in  
21 the Prisoners' Personal Property Fund, as money becomes available.~~

~~22 — 7. The Director may, with approval of the Board, establish by regulation  
23 criteria for a reasonable deduction from money credited to the Offenders' Store  
24 Fund to repay or defray the costs relating to the operation and maintenance of the  
25 offenders' store, coffee shop, gymnasium and correctional officers' salaries for  
26 visitation posts where they exist in each facility. [Any regulations adopted pursuant  
27 to this subsection must be adopted in accordance with the provisions of chapter  
28 233B of NRS.]~~

~~29 — 8. The Director may, with approval of the Board, establish by regulation a  
30 charge on the purchase of electronic devices by offenders to defray the costs  
31 relating to the operation of the devices. The Director shall utilize the proceeds  
32 collected from the charge established for operation of the devices to offset the  
33 energy costs of the facilities within the Department. [Any regulations adopted  
34 pursuant to this subsection must be adopted in accordance with the provisions of  
35 chapter 233B of NRS.]~~

~~36 — 9. The Director may, with approval of the Board, establish by regulation a  
37 charge on the use by offenders of videoconferencing equipment for conducting  
38 visits to defray the costs relating to the operation and maintenance of the  
39 equipment. The Director shall utilize the proceeds collected from the charge  
40 established for the operation and maintenance of the equipment to offset the costs  
41 of operating and maintaining the videoconferencing equipment and correctional  
42 officers' salaries for posts for conducting visits by videoconference where the posts  
43 exist in each facility.~~

~~44 — 10. If an offender who has been assigned to a center for the purpose of  
45 making restitution is returned to an institution for committing an infraction of the  
46 regulations of the Department and the center has not been fully compensated for the  
47 cost of providing the offender with housing, transportation, meals, or medical or  
48 dental services at the center, the Director may authorize the State Controller to  
49 transfer money from the Offenders' Store Fund to the appropriate account in the  
50 State General Fund to repay or defray those costs. The State Controller shall make  
51 the transfer if authorized by the Director. Any money transferred must be accounted  
52 for separately. The Director shall cause the Offenders' Store Fund to be reimbursed~~

1 ~~from the offender's individual account in the Prisoners' Personal Property Fund, as~~  
2 ~~money becomes available.~~

3 ~~11. If an offender has insufficient money in his or her individual account in~~  
4 ~~the Prisoners' Personal Property Fund to repay or defray costs assessed to the~~  
5 ~~offender pursuant to NRS 209.246, the offender shall sign a statement under~~  
6 ~~penalty of perjury concerning his or her financial situation. Such a statement must~~  
7 ~~include, but is not limited to, the following information:~~

8 ~~(a) The value of any interest the offender has in real estate;~~

9 ~~(b) The value of the personal property of the offender;~~

10 ~~(c) The assets in any bank account of the offender; and~~

11 ~~(d) The employment status of the offender.~~

12 ~~12. The statement required by subsection 11 must also authorize the~~  
13 ~~Department to access any relevant document, for the purpose of verifying the~~  
14 ~~accuracy of the information provided by the offender pursuant to this section,~~  
15 ~~including, but not limited to, information regarding any bank account of the~~  
16 ~~offender, information regarding any bank account held in trust for the offender and~~  
17 ~~any federal income tax return, report or withholding form of the offender.~~

18 ~~13. An offender who conceals assets from the Department or provides false or~~  
19 ~~misleading information on a statement prepared pursuant to this section is guilty of~~  
20 ~~a gross misdemeanor.~~

21 ~~14. A person who aids or encourages an offender to conceal assets from the~~  
22 ~~Department or to provide false or misleading information on a statement prepared~~  
23 ~~pursuant to this section is guilty of a gross misdemeanor.] (Deleted by~~  
24 ~~amendment.)~~

25 **Sec. 3.** ~~[NRS 209.2473 is hereby amended to read as follows:~~

26 ~~209.2473 [1.] The Department may adopt regulations necessary to carry out~~  
27 ~~the provisions of NRS 209.247 and 209.463.~~

28 ~~[2. Any regulations adopted pursuant to this section must be adopted in~~  
29 ~~accordance with the provisions of chapter 233B of NRS.] (Deleted by~~  
30 ~~amendment.)~~

31 **Sec. 4.** 1. Any current regulations adopted by the Department of  
32 Corrections ~~[, except for those regulations adopted by the Department pursuant to~~  
33 ~~NRS 209.221 and 209.2473, as those sections existed before July 1, 2023,] **related**~~  
34 ~~to fiscal policy, correspondence with inmates and visitation with inmates~~  
35 ~~must remain in effect until regulations are adopted pursuant to chapter 233B of NRS, as~~  
36 ~~amended by section 1 of this act, to replace those regulations, as required pursuant~~  
37 ~~to subsection 2.~~

38 2. The Department shall, as soon as practicable, adopt regulations pursuant to  
39 chapter 233B of NRS, as amended by section 1 of this act, to replace the current  
40 regulations adopted by the Department ~~[, except for those regulations adopted by~~  
41 ~~the Department pursuant to NRS 209.221 and 209.2473, as those sections existed~~  
42 ~~before July 1, 2023,] **relating to fiscal policy, correspondence with inmates and**~~  
43 ~~visitation with inmates.~~

44 **Sec. 5.** This act becomes effective on July 1, 2023.