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FIRST REPRINT

S.B. 105

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 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
2 establishes procedural requirements for the adoption of regulations and adjudication
3 of contested cases by certain agencies of the Executive Department of the State
4 Government. (Chapter 233B of NRS) With certain exceptions, existing law
5 exempts the Department of Corrections from the requirements prescribed by the
6 Act. (NRS 233B.039) **Section 1** of this bill revises this exemption and makes the
7 Department of Corrections subject to the Act for the purpose of adopting
8 regulations relating to fiscal policy, correspondence with inmates and visitation
9 with inmates of the Department. **Section 4** of this bill provides that the regulations
10 currently adopted by the Department remain in effect until replaced by new
11 regulations adopted by the Department in accordance with the Act.



* S B 1 0 5 R 1 *

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
2 follows:

3 233B.039 1. The following agencies are entirely exempted
4 from the requirements of this chapter:

5 (a) The Governor.

6 (b) Except as otherwise provided in *subsection 7 and* NRS
7 209.221 and 209.2473, the Department of Corrections.

8 (c) The Nevada System of Higher Education.

9 (d) The Office of the Military.

10 (e) The Nevada Gaming Control Board.

11 (f) Except as otherwise provided in NRS 368A.140 and 463.765,
12 the Nevada Gaming Commission.

13 (g) Except as otherwise provided in NRS 425.620, the Division
14 of Welfare and Supportive Services of the Department of Health and
15 Human Services.

16 (h) Except as otherwise provided in NRS 422.390, the Division
17 of Health Care Financing and Policy of the Department of Health
18 and Human Services.

19 (i) Except as otherwise provided in NRS 533.365, the Office of
20 the State Engineer.

21 (j) The Division of Industrial Relations of the Department of
22 Business and Industry acting to enforce the provisions of
23 NRS 618.375.

24 (k) The Administrator of the Division of Industrial Relations of
25 the Department of Business and Industry in establishing and
26 adjusting the schedule of fees and charges for accident benefits
27 pursuant to subsection 2 of NRS 616C.260.

28 (l) The Board to Review Claims in adopting resolutions to carry
29 out its duties pursuant to NRS 445C.310.

30 (m) The Silver State Health Insurance Exchange.

31 (n) The Cannabis Compliance Board.

32 2. Except as otherwise provided in subsection 5 and NRS
33 391.323, the Department of Education, the Board of the Public
34 Employees' Benefits Program and the Commission on Professional
35 Standards in Education are subject to the provisions of this chapter
36 for the purpose of adopting regulations but not with respect to any
37 contested case.

38 3. The special provisions of:

39 (a) Chapter 612 of NRS for the adoption of an emergency
40 regulation or the distribution of regulations by and the judicial
41 review of decisions of the Employment Security Division of the
42 Department of Employment, Training and Rehabilitation;



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

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

6 (d) NRS 90.800 for the use of summary orders in contested
7 cases,

8 ↪ prevail over the general provisions of this chapter.

9 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
10 233B.126 do not apply to the Department of Health and Human
11 Services in the adjudication of contested cases involving the
12 issuance of letters of approval for health facilities and agencies.

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

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

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

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

24 (d) The judicial review of decisions of the Public Utilities
25 Commission of Nevada;

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

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

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

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

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

43 (j) The adoption, amendment or repeal of the statewide plan to
44 allocate money from the Fund for a Resilient Nevada created by
45 NRS 433.732 established by the Department of Health and Human



1 Services pursuant to paragraph (b) of subsection 1 of NRS 433.734;
2 or

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

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

8 **7. *The Department of Corrections is subject to the provisions***
9 ***of this chapter for the purpose of adopting regulations relating to***
10 ***fiscal policy, correspondence with inmates and visitation with***
11 ***inmates of the Department of Corrections.***

12 **Sec. 2.** (Deleted by amendment.)

13 **Sec. 3.** (Deleted by amendment.)

14 **Sec. 4.** 1. Any current regulations adopted by the
15 Department of Corrections related to fiscal policy, correspondence
16 with inmates and visitation with inmates must remain in effect until
17 regulations are adopted pursuant to chapter 233B of NRS, as
18 amended by section 1 of this act, to replace those regulations, as
19 required pursuant to subsection 2.

20 2. The Department shall, as soon as practicable, adopt
21 regulations pursuant to chapter 233B of NRS, as amended by
22 section 1 of this act, to replace the current regulations adopted by
23 the Department relating to fiscal policy, correspondence with
24 inmates and visitation with inmates.

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

