

Fines and Fees Justice Center and Return Strong! Concerns with Tablet Options

Dear Chair Scheible, Vice Chair Miller and Interim Judiciary Committee members,

When AB35 (the tablet bill) was presented during the 2023 legislative session there was a lot of talk about all the great things that these tablets would be capable of doing. Nevada Department of Corrections Director Dzurenda provided the below list of 28 things that the tablets may be able to do. None of these services were promised, however they painted a picture of a product that had the potential to greatly improve rehabilitation and streamline operations inside NDOC facilities.

Through contact with multiple incarcerated tablet users we have identified that 4 of the 28 services on the list are currently fully available:

1. Email access
2. Law Library
3. Religious services and bible study (although not live)
4. Phone capability

Additionally 7 services from the list are partially available:

1. Videos downloaded to all inmates for educational programming and PREA information are available while videos of court processes and grievances processes are not.
2. Visitation lists can be viewed on tablets.
3. Basic commissary can be ordered off of the tablets but no specialty or religious items may be ordered.
4. Maintenance requests for tablet issues can be addressed through a provided phone number. There is no ability to address maintenance issues in a cell or on the unit through the tablets.
5. The only translation service is an English/Spanish dictionary with limited translation ability.
6. Close caption is available on videos but not video calls.
7. There are a few veteran specific resources available, however some such as the veteran specific PTSD coaching app cost 5 cents a minute.

The remaining 17 listed services are not available. We have provided the Directors list from the AB35 hearing and color coded each item. Green = Available, Red = Unavailable, Yellow = Partially Available.

We are deeply concerned that revenue generating services have been prioritized over more impactful services and encourage this body to seek answers as to if and when other services will become available.

Respectfully,

Nicholas Shepack - Nevada State Director - Fines and Fees Justice Center -

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Jodi Hocking - Executive Director - Return Strong - Jodi@returnstrongnv.org



James E. Dzurenda, Director

Nevada Department of Corrections

Assembly Bill 35

An act relating to corrections; requiring the Director of the Department of Corrections to adopt regulations authorizing an offender to possess, have in his or her custody or control and use a telecommunications device for certain purposes; revising the definition of a telecommunications device to include certain tablets; and providing other matters properly relating thereto.

Wireless Devices

1. **Emergency Notification to Mental Health Crises (Internal)**
2. **Emergency Notification to Medical Crises (Internal)**
3. **Emergency Notification to Rape Crises Center (External)**
4. **Own File Folder for each inmate to store personal info and items purchased (resumes, Videos, Applications, etc)**
5. **MediCaid Applications**
6. **Email Access**
7. **Video Downloaded to all inmates (Court Processes, Grievance Process, Educational, Programming, PREA, etc.)**
8. **Purchase Music**
9. **Purchase Videos/Movies**
10. **Purchase Books**
11. **Access to Law Books**
12. **Weekly Religious Services videos, Bible Study**
13. **External Programs (MRT, DBT, etc)**
14. **Access to personal arrest info (Court Date, Bond, Warrants, Inmate Accounts) Available over the phone with our included Automated Information Service (AIS)**
15. **Visiting/Phone List applications**
16. **Commissary Order Forms**
17. **Lists of Community Providers and Services with Contact info**
18. **Inmate Handbook**
19. **Maintenance Requests**
20. **Medication Information (Side effects of issued med or narcotic, what to look for)**
21. **Phone Capability**
22. **Translation/Transcription Services**
23. **Live Feeds (Faith Based Services, Community Programs) Purple App**
24. **Veterans Services**
25. **Grievances**
26. **Inspector General Hotline to report Corruption/criminal Activity**
27. **Close Caption**
28. **Long Distance College Courses (Pell Grant)**

Fines and Fees Justice Center and return Strong! Concerns with Predatory Deposit Fees

Dear Chair Scheible, Vice Chair Miller and Interim Judiciary Committee members,

The Fines and Fees Justice Center (FFJC) and Return Strong! (RS) wish to bring the current predatory deposit fees levied against individuals who wish to communicate with incarcerated individuals via the tablets at NDOC to your attention.

The following images are screenshots from Viapath, the current tablet provider's, email services website Gettingout. They show the fees an individual pays to deposit money in order to send emails at \$0.20 a message. As you will see the fees target low income users who have limited resources to fund their account or the account of their loved one.

Payment Summary	
Deposit Amount	\$10.00
Fees:	\$5.28
Grand Total:	\$15.28

A deposit of \$10 (the minimum) is charged a \$5.28 fee totaling 52.8% of the deposit.

Payment Summary	
Deposit Amount	\$50.00
Fees:	\$6.58
Grand Total:	\$56.58

A deposit of \$50 is charged a \$6.58 fee totaling 13.16% of the deposit.

Payment Summary	
Deposit Amount	\$100.00
Fees:	\$7.95
Grand Total:	\$107.95

A deposit of \$100 is charged a \$7.95 (the max fee) fee totaling 7.95% of the total deposit.

An individual who has the financial means to deposit \$100 or more at a time benefits from significantly lower fees than their low income counterparts. These fees, even at the low end, are significantly more than the customary 2% to 3% credit card processing fee many consumers are accustomed to.

The fact that low income Nevadans are being charged fees as high as 52.8% in order to send emails at 20 cents a piece should be alarming to this body. We strongly encourage the Interim Committee to question the department and the vendor on the issue during the meeting.

Respectfully,

Nicholas Shepack - Nevada State Director - Fines and Fees Justice Center -
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Jodi Hocking - Executive Director - Return Strong - Jodi@returnstrongnv.org

Fines and Fees Justice Center & Return Strong! Tablet Pricing Regulation Concerns

Dear Chair Scheible, Vice Chair Miller and Interim Judiciary Committee members,

The Fines and Fees Justice Center (FFJC) and Return Strong! (RS) wish to express our deep concerns with the Nevada Department of Correction's (NDOC) lack of compliance with regulation R097-24, attached below. SB105 from the 82nd Session sponsored by the Senate Committee on Government Affairs and presented by Chair Scheible required NDOC to create regulations through the 233B public rule making process governing the department's fiscal policy. NDOC worked with both FFJC and RS to craft a regulation designed to protect incarcerated individuals and their families from financial exploitation and place caps on costs associated with incarceration.

FFJC and RS supported the tablet portion of the regulation in public hearings and through final approval by the Legislative Commission based on two important elements:

1. Bulk per-minute purchases at a cost of \$0.01 per minute. Which would allow incarcerated individuals and their families to purchase minutes to be used for entertainment at a significantly more affordable price than the \$0.05 per minute standard usage fee.
2. Premium movie subscriptions at a cost of \$19.99 per month. Which would allow incarcerated individuals and their families to watch unlimited movies at a significantly more affordable rate of \$0.05 per minute or an average of \$5.25 a movie.

Despite these two provisions existing in regulation neither bulk minutes nor subscriptions are currently offered to incarcerated individuals.

FFJC testified during the SB416 (tablet bill) hearing that we had grave concerns that the tablets would be used as a tool of predatory financial extraction to benefit the state and the private for profit company contracted to provide the tablets. We put our faith in the regulatory process and participated from start to finish. Unfortunately our initial concerns have proven to be well founded.

We strongly encourage this body to take all necessary actions to ensure that NDOC and Viapath comply with the agreed upon terms of the regulation.

Below you will find a copy of the regulation with our areas of concern highlighted in red.

Respectfully,

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STATE OF NEVADA
Department of Corrections

SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

Date: March 29, 2024

RE: Workshop to Solicit Comments on Proposed New NAC Chapter 209

I, James Dzurenda, being the appointed Director of the Nevada Department of Corrections, do here by certify, to the best of my knowledge or belief:

1. The proposed new regulation (**LCB File# R097-24**) 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; is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

James Dzurenda
Director

**REVISED 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 establishes 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 \$0.10 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>