

ASSEMBLY BILL NO. 390—COMMITTEE  
ON GOVERNMENT AFFAIRS

MARCH 23, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the Nevada Administrative Procedure Act. (BDR 18-849)

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 governmental administration; making the Department of Corrections subject to the Nevada Administrative Procedure Act; 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 209.221, 209.2473, 233B.039) **Section 1** of this bill removes this  
7 exemption and makes the Department subject to the Act. **Sections 2 and 3** of this  
8 bill make conforming changes to remove the provisions of existing law that  
9 required certain regulations of the Department to be adopted pursuant to the  
10 requirements of the Act since **section 1** requires all regulations of the Department  
11 to be adopted pursuant to the requirements of the Act.

12 **Section 4** of this bill provides that the regulations currently adopted by the  
13 Department remain in effect until replaced by new regulations adopted by the  
14 Department in 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  
2 follows:

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



1 (a) The Governor.

2 (b) ~~[(e)] Except as otherwise provided in NRS 209.221 and~~  
3 ~~209.2473, the Department of Corrections.~~

4 ~~[(e)]~~ The Nevada System of Higher Education.

5 ~~[(d)]~~ (c) The Office of the Military.

6 ~~[(e)]~~ (d) The Nevada Gaming Control Board.

7 ~~[(f)]~~ (e) Except as otherwise provided in NRS 368A.140 and  
8 463.765, the Nevada Gaming Commission.

9 ~~[(g)]~~ (f) Except as otherwise provided in NRS 425.620, the  
10 Division of Welfare and Supportive Services of the Department of  
11 Health and Human Services.

12 ~~[(h)]~~ (g) Except as otherwise provided in NRS 422.390, the  
13 Division of Health Care Financing and Policy of the Department of  
14 Health and Human Services.

15 ~~[(i)]~~ (h) Except as otherwise provided in NRS 533.365, the  
16 Office of the State Engineer.

17 ~~[(j)]~~ (i) The Division of Industrial Relations of the Department  
18 of Business and Industry acting to enforce the provisions of  
19 NRS 618.375.

20 ~~[(k)]~~ (j) The Administrator of the Division of Industrial  
21 Relations of the Department of Business and Industry in  
22 establishing and adjusting the schedule of fees and charges for  
23 accident benefits pursuant to subsection 2 of NRS 616C.260.

24 ~~[(l)]~~ (k) The Board to Review Claims in adopting resolutions to  
25 carry out its duties pursuant to NRS 445C.310.

26 ~~[(m)]~~ (l) The Silver State Health Insurance Exchange.

27 ~~[(n)]~~ (m) The Cannabis Compliance Board.

28 2. Except as otherwise provided in subsection 5 and NRS  
29 391.323, the Department of Education, the Board of the Public  
30 Employees' Benefits Program and the Commission on Professional  
31 Standards in Education are subject to the provisions of this chapter  
32 for the purpose of adopting regulations but not with respect to any  
33 contested case.

34 3. The special provisions of:

35 (a) Chapter 612 of NRS for the adoption of an emergency  
36 regulation or the distribution of regulations by and the judicial  
37 review of decisions of the Employment Security Division of the  
38 Department of Employment, Training and Rehabilitation;

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

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



1 (d) NRS 90.800 for the use of summary orders in contested  
2 cases,

3 ➔ prevail over the general provisions of this chapter.

4 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and  
5 233B.126 do not apply to the Department of Health and Human  
6 Services in the adjudication of contested cases involving the  
7 issuance of letters of approval for health facilities and agencies.

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

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

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

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

19 (d) The judicial review of decisions of the Public Utilities  
20 Commission of Nevada;

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

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

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

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

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

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

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



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

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

5       209.221 1. The Offenders' Store Fund is hereby created as a  
6 special revenue fund. All money received for the benefit of  
7 offenders through contributions, and from other sources not  
8 otherwise required to be deposited in another fund, must be  
9 deposited in the Offenders' Store Fund.

10      2. The Director shall:

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

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

15      (c) Submit a monthly report to the offenders of the amount of  
16 money in the Fund by posting copies of the report at locations  
17 accessible to offenders generally or by delivery of copies to the  
18 appropriate representatives of the offenders if any are selected.

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

23      4. If necessary to cover a shortfall of money in the Prisoners'  
24 Personal Property Fund, the Director may, after obtaining the  
25 approval of the Interim Finance Committee, authorize the State  
26 Controller to transfer money from the Offenders' Store Fund to the  
27 Prisoners' Personal Property Fund, and the State Controller shall  
28 make the transfer.

29      5. If an offender has insufficient money in his or her individual  
30 account in the Prisoners' Personal Property Fund to repay or defray  
31 costs assessed to the offender pursuant to NRS 209.246, the Director  
32 shall authorize the State Controller to transfer sufficient money from  
33 the Offenders' Store Fund to the appropriate account in the State  
34 General Fund to pay costs remaining unpaid, and the State  
35 Controller shall make the transfer. Any money so transferred must  
36 be accounted for separately. The Director shall cause the Offenders'  
37 Store Fund to be reimbursed from the offender's individual account  
38 in the Prisoners' Personal Property Fund, as money becomes  
39 available.

40      6. If the Department incurs costs related to state property that  
41 has been willfully damaged, destroyed or lost or incurs costs related  
42 to medical examination, diagnosis or treatment for an injury to an  
43 offender, the Director may authorize the State Controller to transfer  
44 money from the Offenders' Store Fund to the appropriate account in  
45 the State General Fund to repay or defray those costs if:



1 (a) The Director has reason to believe that an offender caused  
2 the damage, destruction, loss or injury; and

3 (b) The identity of the offender is unknown or cannot be  
4 determined by the Director with reasonable certainty.

5 ↪ The State Controller shall make the transfer if authorized by the  
6 Director. Any money transferred must be accounted for separately.  
7 If the identity of the offender is determined after money has been  
8 transferred, the Director shall cause the Offenders' Store Fund to be  
9 reimbursed from the offender's individual account in the Prisoners'  
10 Personal Property Fund, as money becomes available.

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

19 8. The Director may, with approval of the Board, establish by  
20 regulation a charge on the purchase of electronic devices by  
21 offenders to defray the costs relating to the operation of the devices.  
22 The Director shall utilize the proceeds collected from the charge  
23 established for operation of the devices to offset the energy costs of  
24 the facilities within the Department. ~~[Any regulations adopted  
25 pursuant to this subsection must be adopted in accordance with the  
26 provisions of chapter 233B of NRS.]~~

27 9. The Director may, with approval of the Board, establish by  
28 regulation a charge on the use by offenders of videoconferencing  
29 equipment for conducting visits to defray the costs relating to the  
30 operation and maintenance of the equipment. The Director shall  
31 utilize the proceeds collected from the charge established for the  
32 operation and maintenance of the equipment to offset the costs of  
33 operating and maintaining the videoconferencing equipment and  
34 correctional officers' salaries for posts for conducting visits by  
35 videoconference where the posts exist in each facility.

36 10. If an offender who has been assigned to a center for the  
37 purpose of making restitution is returned to an institution for  
38 committing an infraction of the regulations of the Department and  
39 the center has not been fully compensated for the cost of providing  
40 the offender with housing, transportation, meals, or medical or  
41 dental services at the center, the Director may authorize the State  
42 Controller to transfer money from the Offenders' Store Fund to the  
43 appropriate account in the State General Fund to repay or defray  
44 those costs. The State Controller shall make the transfer if  
45 authorized by the Director. Any money transferred must be



1 accounted for separately. The Director shall cause the Offenders'  
2 Store Fund to be reimbursed from the offender's individual account  
3 in the Prisoners' Personal Property Fund, as money becomes  
4 available.

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

- 11 (a) The value of any interest the offender has in real estate;
- 12 (b) The value of the personal property of the offender;
- 13 (c) The assets in any bank account of the offender; and
- 14 (d) The employment status of the offender.

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

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

26 14. A person who aids or encourages an offender to conceal  
27 assets from the Department or to provide false or misleading  
28 information on a statement prepared pursuant to this section is guilty  
29 of a gross misdemeanor.

30 **Sec. 3.** NRS 209.2473 is hereby amended to read as follows:

31 209.2473 ~~[-]~~ The Department may adopt regulations  
32 necessary to carry out the provisions of NRS 209.247 and 209.463.

33 ~~[-] Any regulations adopted pursuant to this section must be~~  
34 ~~adopted in accordance with the provisions of chapter 233B of NRS.~~

35 **Sec. 4.** 1. Any current regulations adopted by the  
36 Department of Corrections, except for those regulations adopted by  
37 the Department pursuant to NRS 209.221 and 209.2473, must  
38 remain in effect until regulations are adopted in accordance with the  
39 provisions of chapter 233B of NRS to replace those regulations, and  
40 as required pursuant to subsection 2.

41 2. The Department of Corrections shall, as soon as practicable,  
42 adopt regulations in accordance with the provisions of chapter 233B  
43 of NRS to replace the current regulations adopted by the  
44 Department, except for those regulations adopted by the Department  
45 pursuant to NRS 209.221 and 209.2473.



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

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