

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
and
NOTICE OF HEARING
for
THE TEMPORARY ADOPTION, AMENDMENT AND REPEAL
OF
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

Workshop Notice: The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0150, is proposing the permanent adoption, amendment and repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:30 a.m. on September 2, 1999, at the Grant Sawyer State Office Building, Room 4401, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

ACTION

Newly proposed rules for permanent adoption

'Nonclassified employee' defined	284.070
Affirmative action and equal employment opportunity	284.114
Creation of a new class, reclassification of position or reallocation of existing class	284.126
Temporary Classifications	284.132
Initial rate of salary	284.170
Special adjustments to salaries	284.206
Compensation for differentials in shifts	284.210
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Lists of persons with disabilities who are eligible for temporary limited appointments	284.364
Computation of payments for holidays	284.526
Family and medical leave eligibility	284.581

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number

(775) 684-0150, or 555 East Washington Avenue, Suite 1200, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

Hearing Notice: The Personnel Commission will hold a public hearing at 9:00 a.m. on September 10, 1999, at the Nevada Commission on Tourism, 2nd Floor Commission Chambers, 401 North Carson Street, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations should not result in any increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other state or local governmental agencies.
- These Regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and purpose of the proposed regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Phil Hauck, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before September 7, 1999.**

A copy of this notice and the regulations to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted and amended will be available at the Department of Personnel, 209 East Musser, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Carson City Court House, 885 East Musser Street
Capitol Press Corps, Basement, Capitol Building
Nevada State Library, 100 Stewart Street
Capitol Building

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

ALL STATE AGENCIES**ALL NEVADA COUNTY PUBLIC LIBRARIES**

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at 684-0110, no later than five working days prior to the meeting.

LCB File No. R098-99

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

Sec. 1. NAC 284.070 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel conforms with legislation passed by the 1999 State Legislature which removes employees in the office of the Governor from classified and unclassified State service.

284.070 “Nonclassified employee” defined. “Nonclassified employee” means an employee in the *office of the governor or the* judicial or legislative branch of state government.

Sec. 2. NAC 284.114 is hereby amended to read as follows:

Explanation of Change: A recommendation has been made to the Legislative Counsel Bureau to add Equal Employment Opportunity to the lead line of NAC 284.114 in order to more accurately reflect the content of this section. This amendment proposed by the Department of Personnel conforms with legislation passed by the 1999 State Legislature which prohibits discrimination in employment based on sexual orientation.

284.114 Affirmative action program *and equal employment opportunity.*

1. The department of personnel is responsible for establishing, coordinating, and evaluating an affirmative action program for the state.
2. The department of personnel will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, *sexual orientation*, religion, color, national origin, age, or disability.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

Sec. 3. NAC 284.126 is hereby amended to read as follows:

Explanation of Change: The change to subsection 4 proposed by the department of Personnel provides a cross reference to the special salary adjustment authorized when an employee does not meet the minimum qualifications for promotion.

284.126 Creation of new class, reclassification of position or reallocation of existing class.

1. For the purposes of this section:

(a) “Agency personnel officer” means the director of personnel within the University and Community College System of Nevada or any person holding a position in the classified service with the title of personnel officer.

(b) “Significant change” means a change in the duties and responsibilities assigned to a position in a class that:

- (1) Is outside of the scope of the class as described by the class specification;
- (2) Is not part of the scope of responsibility of the position; and

(3) Results in the preponderance of duties and responsibilities being allocated to a different class.

2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the department of personnel or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the department of personnel will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate. The effective date will be the date on which form NPD-19 is received by the department of personnel or agency personnel officer unless information concerning the qualifications of the incumbent or information which substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date the form should reasonably have been submitted to the department of personnel or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months from the date of receipt.

3. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the budget division of the department of administration or, in the case of the University

and Community College System of Nevada, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the department of personnel until funding for it is approved. If the change is approved by the department of personnel, the effective date will be determined by the budget division.

4. In effecting a reclassification pursuant to subsection 2 or 3, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position. *If an employee does not meet the minimum qualifications to reclassify his position, he is not eligible for promotion, but may be eligible for a special salary adjustment as provided in NAC 284.206.*

5. The establishment of a new class, or reallocation of a class or a class series based on an occupational study conducted by the department of personnel, becomes effective when the funding is provided by the Nevada legislature in the biennial operating budget for the state.

6. From the date that the department of personnel formally announces the beginning of an occupational study until the date that the occupational study is funded by the Nevada legislature:

(a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.

(b) An existing class in the occupational study must not be reallocated to a different pay grade.

(c) A new position may be allocated to an existing class or a new class as determined by the department of personnel.

Sec. 4. NAC 284.132 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel provides for temporary classifications at a lower grade or at the same grade, in addition to those at a higher grade.

284.132 Temporary classifications.

1. An appointing authority, an employee or the department of personnel may request a temporary classification which allows the classification of a position for a temporary period of 1 year or less. Each ~~promotion~~ *appointment* which is designated as temporary must have specific criteria established which justify the grade of the position and the projected date of expiration of the period. A position which no longer meets this criteria will revert back to the class from which it was reclassified. This method of classification is subject to the following conditions:

(a) Temporary classifications must meet the allocation standards and the criteria established for the ~~higher~~ class before this method may be used. The classification must be approved by the department of personnel before the ~~promotion~~ *action*.

(b) An employee who is ~~promoted~~ *appointed* into a temporary class must sign the payroll document. This signature acknowledges that the employee understands the conditions of the reclassification and its projected date of expiration.

2. If the employee meets the minimum qualifications for the temporary classification, he:

~~[(a) Must be promoted;~~

~~—(b)]~~ (a) Retains his status of appointment; and

~~[(e)]~~ (b) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

An incumbent who has reverted to his previous class is entitled to the step, date of record and status of appointment ~~[as though he had not been promoted]~~ *of the previous class*.

3. An employee who is promoted pursuant to this section must receive a new date of record if his promotion results in an increase of at least two grades. The rate of compensation for the employee will be determined in accordance with the provisions of NAC 284.170 governing compensation on promotion.

4. In case of a layoff, the temporarily assigned employee's class of layoff is his former class. The time served in the temporary class is counted for seniority purposes if it was in the same occupational class, as provided in NRS 284.171.

Sec. 5. NAC 284.170 is hereby amended to read as follows:

Explanation of Change: The amendment to subsection 2(b) moves language from NAC 284.206 to NAC 284.170. The amendment to subsection 3(b) clarifies the rate of pay when an employee voluntarily demotes and his current salary does not fall within the lower grade.

284.170 Initial rate of salary; effect of promotion, demotion, transfer, reappointment, or reemployment; minimum step for continuous employee.

1. Except as otherwise provided in NAC 284.204 and 284.206, the following provisions govern the rate of salary which must be paid at the time of employment:

(a) If the employment is an initial appointment, the salary must be at the lowest step of the grade of the position.

(b) If the employment is a reinstatement to a position which is:

(1) At the same grade as that of the employee's former position, he may be paid at or below the step which he held in his former position.

(2) At a lower grade or a higher grade than that of his former position, he may be paid at or below the step which most closely corresponds to the grade and step of his former position providing the higher grade is a result of the reallocation of the entire class because of a reclassification or general salary increase.

2. The following provisions govern the rate of salary which must be paid if an employee is promoted:

(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:

(1) If the employee moves one grade above his former grade, he must be placed at a step in the new grade which is equivalent to an increase of one step above his former salary.

(2) If the employee moves two or more grades above his former grade, the employee must be placed:

(I) At a step which is equivalent to an increase of two steps; or

(II) At the lowest step of the new grade,

whichever salary is higher and in accordance with the provisions of subsection 8.

(b) An adjustment in salary granted in accordance with paragraph (c) of subsection 1 of NAC 284.206 *and adjusted to the half step within the grade which is closest to, but does not exceed, the employee's salary* is the present level of salary for the purpose of calculating an increase authorized by this subsection only if the employee:

(1) Has held the adjustment for the equivalent of 6 months or more of full-time service;
and

(2) Is not underfilling a higher class.

(c) If an employee has been demoted, he may not receive a promotional increase in salary that is greater than that which he would have otherwise been entitled to receive had he not been demoted.

(d) This subsection does not apply when an employee is reemployed or reappointed to his former grade within 1 year after holding that grade.

3. Except as otherwise provided in this subsection and NAC 284.618, an employee who is demoted must be paid at a step within the grade of the lower class as follows:

(a) If the employee has attained permanent status in the class from which he was demoted and the demotion is instituted at the employee's request or is subject to his choice of acceptance or rejection, the appointing authority must pay him at a step which is:

(1) Equal to his present salary; or

(2) Equivalent to a decrease of not more than one step. Except as otherwise provided in paragraph (b) of this subsection, if the salary does not fall within the grade of the lower class, the employee must be paid at a step in the lower grade which is equal to:

(I) The step he would have received, based on satisfactory performance, if he had not been promoted; or

(II) The step he would have received, based on satisfactory performance, if he had been employed in that class from the inception of his employment with the state.

(b) An exception to subparagraph (2) of paragraph (a) may be granted by the appointing authority to pay an employee at a rate that does not fall within the lower grade if the appointing

authority determines that the demotion is in the best interest of the employee and the state. If such an exception is granted, the employee's rate of pay will be limited to three grade levels above the grade of the class to which he is demoted or his current salary, whichever is less.

The employee's current salary will be frozen *until it falls within the range of the lower grade* or for a maximum of 2 years from the date he was demoted, making the employee ineligible for any future salary adjustment, cost of living adjustments or wage and salary adjustments.

~~[The employee's frozen salary will automatically be adjusted to the highest step within the lower grade if his salary falls within the range of the lower grade or at the end of the 2-year period, whichever occurs first.]~~ *If the employee's frozen salary does not fall within the range of the lower grade within this two-year period, the pay will be adjusted to the highest step within the lower grade.*

(c) If an employee accepts a promotion and is demoted before attaining permanent status in the class, he must be paid at:

(1) The first step in the grade of the class to which he was demoted; or

(2) A step in the grade of the class to which he was demoted which is equivalent to the salary to which he would have been entitled had he not been promoted, whichever is greater.

(d) If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by paragraph (c), the appointing authority must determine the step in the lower grade at which the employee will be paid.

(e) Except as otherwise provided in this paragraph, if the demotion occurs during the initial probationary period in state service, the employee must be placed at the first step in the class to which he is demoted. If such a demotion occurs because of a displacement due to a layoff or

the restoration of an employee pursuant to NRS 284.300, the appointing authority may pay the demoted employee at any step in the lower grade that is not greater than his present salary.

4. If an employee is transferred to a position in the same or a related class, he must be placed at the corresponding step in the same grade that he held before the transfer. Any exception to this subsection must be approved by the department of personnel based upon a written request and justification for the exception submitted by the appointing authority.

5. If an employee is reappointed to a position:

(a) Which is in the grade which he currently holds, he retains his step.

(b) Which is in a higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.

(c) Which is in a higher grade and the reappointment occurs more than 1 year after he held that grade, his salary must be calculated pursuant to subsection 2.

Any exception to this subsection must be approved by the department of personnel based upon a written request and justification for the exception submitted by the appointing authority.

6. Except as otherwise provided in subsection 7, if a person is reemployed at:

(a) The same grade, there must be no change in step.

(b) A lower grade, he must be placed at a step which most closely corresponds to the grade and step which he held at the time of his layoff or separation.

(c) A higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.

An exception to this requirement may be made if the conditions in NAC 284.204 or 284.206 exist, or if money is not available as certified by the chief of the budget division of the department of administration or, in the case of an agency that is not funded from the state

general fund or the University and Community College System of Nevada, as certified by the administrator of that agency or system. If an exception is made pursuant to this subsection, the employee retains his right of reemployment.

7. If a person who is eligible for military reemployment is reemployed, the period of his military service must be included in calculating the step at which he will be placed.

8. An employee who has been continuously employed without a break in service may not have his salary set below:

(a) Step 7 of any grade if his date of hire is before April 26, 1973; or

(b) Step 5 of any grade if his date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.

9. When a nonclassified or unclassified employee or an employee included in the personnel system pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he may, at the discretion of the appointing authority:

(a) Be paid at a step which corresponds to or is below his current rate of pay if it is within the grade of the class to which he is appointed;

(b) Be paid at the first step in the new grade to which he is appointed; or

(c) Receive a special adjustment to his salary pursuant to subsection 1 of NAC 284.204 or 284.206.

10. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 9 may not be paid at a step and grade which is greater than he received at the time he left the classified service, unless he has held the unclassified or nonclassified position for more than 1 year.

Sec. 6. NAC 284.206 is hereby amended to read as follows:

Explanation of change: The amendment to subsection 1 is required by the deletion of subsection 6.

The amendment to subsection 1(d) proposed by the Department of Personnel provides for a correction to the name of the Division of Mental Health and Developmental Services as approved by the 1999 State Legislature and the removal of a special salary adjustment at the Department of Prisons where the need no longer exists.

The addition of subsection 1(i) proposed by the Department of Personnel provides for an additional special salary adjustment when authorized by the Legislature.

The addition of subsection 2 revises the special salary adjustment for an employee who does not meet the minimum qualifications for promotion from 5% to 2.5% when an employee's position is proposed to be reclassified one grade higher than his/her current position. A special salary adjustment of 5% continues to be applicable for an employee whose position is proposed to be reclassified two or more grades above his/her current position.

The amendment to subsection 5 proposed by the Department of Personnel provides for clarification of the effective date of a special salary adjustment.

The amendment to subsection 6 deletes an obsolete provision and moves the relevant language to subsection 1 of this section and NAC 284.170.

284.206 Special adjustments to salaries.

1. ~~Except as otherwise provided in subsection 6, the~~ *The* department of personnel may approve a special adjustment to a salary equivalent to ~~one grade~~ *5 percent of the employee's regular hourly rate* to recognize conditionally:

(a) An employee who works out of his class on a continuing basis and who performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase the employee must:

(1) Be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification; and

(2) Carry out the duties for at least 16 consecutive workdays before the increase becomes effective.

The adjustment in salary must not continue for more than 6 months in any 12-month period unless the person is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(b) An employee required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.

(c) An employee supervising other employees of the same or a higher grade if the supervision is not of a program or function which is provided for in the specification of the class.

(d) An employee of the mental ~~hygiene and mental retardation~~ *health and developmental services* division of the department of human resources or the division of child and family services of the department of human resources ~~for of the division of the department of prisons which provides mental health services to inpatients,~~ who is required regularly to perform custodial work and clean up human bodily wastes, or, if his principal place of work is located in an assaultive environment as determined by the administrator, to provide medical treatment, maintain buildings, instruct academic courses or provide therapy. The adjustment will be:

- (1) Granted only when such duties are not required of the class as a whole; and
- (2) Granted only once although the employee performs more than one duty described in this paragraph.

Except as otherwise provided in this paragraph, such an employee who is assigned to the unit located in an assaultive environment for 1 or more hours but who is not assigned there permanently must also receive the adjustment for each hour and portion thereof he works in the

unit. An excluded classified employee who is assigned to the unit located in an assaultive environment for any portion of a workday but who is not assigned there permanently must receive the adjustment for all of his regularly scheduled hours of employment on that workday.

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal program of training for employees in an occupational class series. The training must:

- (1) Be conducted weekly;
- (2) Consist of training on the job and in the classroom or training only in the classroom;
- (3) Include a test to determine the employee's progress in the program; and
- (4) Result in the award of a certificate of completion or advancement in a training class

series to the journey level.

If granted, the adjustment begins when the employee starts conducting the program of training and ends when the program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees in a class series will not be considered for this special adjustment.

(f) An investigator of the state industrial insurance system who is required by his appointing authority to carry a concealed weapon and to investigate threats of violence against employees of the agency and who has been authorized by the appropriate law enforcement agency to carry a concealed weapon.

(g) A law enforcement officer who is assigned to motorcycle duty.

(h) An employee of the department of prisons who regularly supervises, or is responsible for the supervision of, a group of inmates assigned to a work area of a prison and who is responsible for implementing security procedures, including, without limitation, securing the work area from inmates who are not authorized to enter, accounting for all inmates who have

been assigned to the work area and accounting for all materials, tools and equipment in the work area. This adjustment will be granted only if such duties are not provided for in the class specification.

(i) *An employee who receives an increase authorized by the State Legislature.*

2. ~~[An employee]~~ *The department of personnel may approve a special salary adjustment to recognize an employee who occupies a position in which the duties have been recognized pursuant to a position questionnaire as being at a higher level, but who does not meet the minimum qualifications for promotion to the new grade. An adjustment of 2.5% of the employee's regular hourly rate may be approved for performing duties classified one grade higher than his current position; or 5.0% of the employee's regular hourly rate for performing duties classified two or more grades higher than his current position.* The special adjustment may continue in effect from the date the position is reclassified or the position questionnaire is received:

- (1) Until the employee meets the minimum qualifications and is promoted;
- (2) For 1 year after the effective date of the special salary adjustment; or
- (3) Until the date the higher level duties are removed,

whichever occurs first.

~~[2.]~~ 3. A request for a special adjustment to a salary made pursuant to this section may be initiated by an employee, the appointing authority or the department of personnel.

~~[3.]~~ 4. A special adjustment authorized by this section does not constitute a promotion.

~~[4.]~~ 5. Any special adjustment made pursuant to subsection 1 must be revoked when the conditions justifying it cease to exist.

~~[5.]~~ 6. Except as otherwise provided in this section, the effective date of a special adjustment to a salary is the date the appropriate document is received by the department of personnel *or the agency's personnel office*. If a special adjustment to a salary is delayed because an administrative or clerical error prevented the delivery of a prepared document to the department, the effective date must be determined by the appointing authority and must be based on the date the document should reasonably have been submitted to the department of personnel. A retroactive adjustment due to administrative or clerical error must not exceed 6 months from the date of receipt of the document.

~~[6.—Commencing with the initial use of an integrated computerized financial system by the state controller and the department of transportation to process payroll, the department of personnel may approve a special adjustment to a salary pursuant to subsection 1 in an amount equivalent to 5 percent of the employee's regular hourly rate. For the purposes of paragraph (b) of subsection 2 of NAC 284.170, "present level of salary" shall be deemed to equal the amount that coincides with the half step within the grade which is closest to, but does not exceed, the employee's salary after the special adjustment.]~~

Sec. 7. NAC 284.210 is hereby amended to read as follows:

Explanation of change: The Department of Personnel proposes this amendment to remove obsolete provisions in subsections 1 and 6. Shift differential pay is not 5% of an employee's regular hourly rate of pay.

284.210 Compensation for differentials in shifts.

1. Except as otherwise provided in this section, compensation equivalent to an adjustment of ~~[one grade]~~ *5% of the employee's regular hourly rate* must be authorized for an employee

for all hours worked within a work shift if the employee is assigned to a qualifying shift. An excluded classified employee who is assigned to a qualifying shift for any portion of a workday must receive such compensation for all of his regularly scheduled hours of employment on that workday.

2. One shift qualifies an employee to receive the compensation.

3. The compensation applies during the time when an employee is on sick and annual leave, holidays and other leave with pay if the employee is still assigned to that shift when the leave is taken.

4. Any hours exceeding the qualifying 8-hour shift are eligible for overtime at the differential rate of pay for that shift if they are worked by an employee other than an excluded classified employee, in conjunction with, immediately before or following the shift.

5. A qualifying shift, including the times at which the shift started and ended, must be clearly designated on the employee's time sheet and approved by the employee's supervisor.

6. ~~Commencing with the initial use of an integrated computerized financial system by the state controller and the department of transportation to process payroll, the amount of the adjustment to compensation authorized by subsection 1 must be equivalent to 5 percent of the employee's regular hourly rate.~~

~~7.]~~ As used in this section, "qualifying shift" means a period of work of at least 8 hours, of which 4 hours must fall within the hours from 6 p.m. to 7 a.m.

Sec. 8. NAC 284.290 is hereby amended to read as follows:

<p>Explanation of Change: The amendment proposed by the Department of Personnel is intended to clarify the provisions of a retained rate of pay.</p>

284.290 Retained rates of pay.

1. An employee who is reclassified downward through no fault of his own is entitled to a retained rate of pay if the following conditions are found to exist by the department of personnel:

- (a) The employee has been in the same class for 6 months (full-time equivalent) immediately preceding the downward reclassification; and
- (b) The reclassification is the result of a reorganization or other legitimate reason over which the employee has no control.

2. If an employee is entitled to a retained rate of pay, the following procedures apply:

- (a) The employee's pay status remains unaffected for 2 years from the date of the downward reclassification. At the end of the 2-year period, the employee's specific current rate of pay will be frozen *until it falls within the range of the lower grade or* for a maximum of 2 years, making the employee ineligible for any future salary adjustments, cost of living adjustments, or wage and salary adjustments. *If the employee's frozen salary does not fall within the range of the lower grade within this two-year period, the pay will be adjusted to the highest step within the lower grade. [The employee's frozen salary will automatically be adjusted to the highest step within the lower grade if his salary falls within the range of the lower grade or at the end of the 2-year period, whichever occurs first.]*

- (b) If the employee voluntarily accepts another position within the time period, he may no longer retain his salary.

- (c) The employee is entitled to reemployment rights provided in NAC 284.140.

3. This section does not apply to an employee who is occupying a position which is reclassified to a higher class and is later restored to the former class pursuant to NAC 284.132.

Sec. 9. NAC 284.364 is hereby amended to read as follows:

Explanation of Change: The amendment proposed by the Department of Personnel clarifies the type of information which is considered by the Department of Personnel in its evaluation of persons with disabilities.

284.364 Lists of persons with disabilities who are eligible for temporary limited appointments.

1. Pursuant to NRS 284.327, the rehabilitation division of the department of employment, training and rehabilitation will certify to the department of personnel the names of persons with disabilities who are eligible for temporary limited appointments of 700 hours' duration. Upon receipt from the rehabilitation division of the job applications ~~and~~ *and* job recommendations, ~~and documentation which describes the type of disability and the limitations it imposes,~~ the department of personnel will evaluate the information against the job requirements and minimum qualifications of the recommended classes. The names of qualified persons with disabilities will be certified on special unranked lists of persons with disabilities.

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his disability jeopardizes his continued employment in his present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

Sec. 10. NAC 284.470 is hereby amended to read as follows:

Explanation of Change: The amendment proposed by the Department of Personnel clarifies the time allowed for an employee to respond if he disagrees with his report on performance.

284.470 Preparation and discussion of reports.

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the department of personnel.

3. When a report on performance is given which reports the rating of performance of an employee as substandard, it must contain a written notice that such reports affect both adjustments in salary based on merit and the employee's eligibility for longevity pay. More frequent reports may be made in the supervisor's discretion.

4. Except as otherwise provided in subsection 5, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report on performance within 10 working days after the discussion takes place and return the report to his supervisor for forwarding to the appointing authority. If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing *within 10 working days after the discussion takes place* and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond to the employee in writing within 10 working days after receiving the request.

5. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 4 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report and mail the report to his supervisor for forwarding to the appointing authority within 10 working days after

the date on which the employee received the report. If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing and identify any specific point of disagreement, if the report provides such specificity. The employee must mail his response to his supervisor within 10 working days after the date on which the employee received the report. The reviewing officer shall respond to the employee in writing within 10 working days after the reviewing officer receives the request for review from the employee. For the purposes of this subsection, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

6. A copy of each report on performance must be filed with the department of personnel.

7. An employee and his employer may agree in writing to extend one or more of the periods prescribed in subsection 5.

Sec. 11. NAC 284.478 is hereby amended to read as follows:

<p>Explanation of Change: The amendment proposed by the Department of Personnel provides that a permanent employee may grieve a contested performance evaluation only after requesting a review by the reviewing officer.</p>
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284.478 Appeal of contested performance evaluations. A contested performance evaluation may be appealed through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.695, inclusive *when a permanent employee has exhausted his appeal rights as provided in NAC 284.470 and disagrees with the decision of the reviewing officer.*

Sec. 12. NAC 284.526 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel exempts catastrophic leave hours from qualifying for holiday pay.

284.526 Computation of payments for holidays.

1. For the purpose of this section, “paid status” means the time an employee is working, is on leave approved pursuant to NAC 284.580 or is on leave with pay, excluding overtime hours *or catastrophic leave*.

2. A full-time employee working other than a standard work week is entitled to the same number of paid holidays as a full-time employee working the equivalent standard work week.

3. Except as otherwise provided in subsections 11 and 12, a full-time employee who works 40 hours per week, does not work on a holiday and is in paid status during any portion of his scheduled shift immediately before the holiday is entitled to receive 8 hours of holiday pay.

4. Except as otherwise provided in subsections 11 and 12, a full-time employee who works more than 40 hours per week or 80 hours biweekly, is not scheduled to work on a holiday and is in paid status during any portion of his scheduled shift before the holiday is entitled to receive an amount of holiday pay equal to the pay received for his average workday. The average workday of an employee is determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8. For the purposes of this subsection, a fireman assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

5. Except as otherwise provided in subsection 11 and 12, an employee who is scheduled to work on a holiday and who works any portion of his scheduled shift is eligible to receive

holiday pay in the amount provided in subsection 3 or 4. The employee is entitled to earn additional holiday pay on an hour for hour basis for any hours worked in addition to the period represented by the holiday pay if the hours are worked as part of the employee's normally scheduled shift. Any hours worked in addition to the normally scheduled shift do not qualify for additional holiday pay.

6. An employee who works on a holiday must be in paid status on that holiday for the amount of time which is the difference between the time represented by his holiday pay and his normal work schedule for that holiday. If the employee has not worked enough hours to be in paid status, he must use sick leave, annual leave, or compensatory time to make up the difference.

7. Except as otherwise provided in subsection 11, an employee who is scheduled to work on a holiday, but does not work is eligible for holiday pay in the manner provided in subsection 3 or 4.

8. A full-time employee whose employment begins on a holiday is entitled to receive holiday pay in accordance with subsection 3 or 4 if he is in paid status during his scheduled shift.

9. A full-time employee whose regular schedule of work is more than 8 hours, but who has the day off because of a holiday, may use annual leave, compensatory leave, or have his schedule adjusted for the amount of time in excess of the holiday pay to which he would be entitled pursuant to subsection 3 or 4. An employee who does not elect to use annual leave or compensatory time and whose schedule is not adjusted may, with the approval of the appointing authority, be placed on a leave of absence without pay.

10. An employee working a part-time standard, nonstandard, or innovative work week must be paid holiday pay if:

(a) The holiday falls on a scheduled workday; and

(b) He is in paid status during his scheduled shift immediately before the holiday or on the holiday if his employment begins on that day.

The amount of holiday pay must not exceed 8 hours but must otherwise equal what he would have been paid if there had not been a holiday.

11. An employee scheduled to work on a holiday who fails to report his absence to his supervisor or a designated representative as required by NAC 284.590 is not entitled to receive compensation for the holiday.

12. An employee whose employment is terminated:

(a) The day before the holiday is not entitled to receive compensation for the holiday.

(b) On a holiday on which he is working must be paid an amount for the holiday in proportion to the time he actually worked on the holiday. When an employee gives notice to terminate on a holiday and is not scheduled to work on the holiday, the last day worked or in paid leave status is his date of termination.

13. An employee who transfers the day before a holiday becomes an employee of record in the new agency on the holiday and is entitled to receive compensation for the holiday from the new agency. An employee who transfers from an agency at the end of a shift on a holiday is entitled to receive compensation for the holiday from the previous agency.

14. An employee whose employment is not full-time employment is entitled to be paid holiday pay as provided in subsection 10.

15. Subsections 1 to 14, inclusive, do not apply to an excluded classified employee or excluded unclassified employee. The salary of an excluded classified employee or excluded unclassified employee must not be reduced solely because a holiday occurs on a scheduled workday of that employee.

Sec. 13. NAC 284.581 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel removes language that is not applicable to a public employer under the Family and Medical Leave Act.

284.581 Family and medical leave: Eligibility.

1. An employee is eligible for family and medical leave if he:
 - (a) Has at least 12 months of service with the state on the date that the leave commences, regardless of whether such service is continuous;
 - (b) Has at least 1,250 hours of service with the state during the 12 months preceding the day that the leave commences;
 - (c) Is employed, on the day that he gives notice of the need for leave ~~[, at a worksite where the state employs at least 50 employees within 75 miles of the worksite]~~ ; and
 - (d) Has used less than 12 work weeks that have been designated family and medical leave during the current calendar year.
2. To calculate the hours of service for the purposes of this section, paid leave shall be considered as time worked.