

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).



# WORK SESSION

## Senate Committee on Government Affairs

April 30, 2003

PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

The following measure will be considered for action by the Senate Committee on Government Affairs during today's work session:

### **ASSEMBLY BILL 217**

**Makes various changes regarding State Personnel System.  
(BDR 23-495)**

Sponsored by: Assembly Committee on Government Affairs  
(on behalf of the Department of Personnel)  
Date Heard: April 28, 2003

Assembly Bill 217 transfers the authority to adopt regulations for Chapter 284 of the *Nevada Revised Statutes* from the Department of Personnel and its Director to the Personnel Commission, and further provides that existing regulations remain in effect unless amended or repealed by the Commission. The bill clarifies certain provisions relating to classified service, including that a continuous program of recruitment is required only for classified service. The bill also clarifies that employment consideration must be given to a person with a disability who is capable of performing the essential functions of the position, and that reasonable accommodations must be made to enable such a person to perform the essential functions of the position.

Other provisions of the bill permit state officers, departments, agencies, boards, and commissions to establish variable hours and work days to accommodate the needs of persons they serve. Upon the request of an employee, an appointing authority of state employees may permit the satisfaction of certain overpayments of salary through a corresponding reduction in accrued annual leave. With regard to prospective employees in positions affecting public safety, the bill authorizes the Director of the Department of Personnel to refuse examination for employment or certification for a position if drug testing detects a controlled substance and the person cannot provide proof that the controlled substance was being taken pursuant to a lawful prescription. In addition, the State Board of Examiners may delegate to its clerk the authority to designate an overpayment of compensation to a current or former state employee as a bad debt, provided the overpayment is not more than \$50. The bill also repeals a duplicative section of the *Nevada Revised Statutes*.

*Proposed Conceptual Amendment(s)*

An amendment has been offered to include in Chapter 284 of the *Nevada Revised Statutes* a definition of "essential functions of a position" to have the same meaning ascribed to it in 29 *Code of Federal Regulations* Section 1630.2(n).

*(proposed by Department of Personnel)*

NOTE: A letter from Jeanne Greene, Director, Nevada's Department of Personnel, clarifying the provisions of A.B. 217 is attached. A memorandum from Kathy Augustine, State Controller, explaining the "anticipated pay week" is also attached.

**DEPARTMENT OF PERSONNEL**

209 E. Musser Street, Room 101  
Carson City, Nevada 89701-4204  
(775) 684-0150  
[www.state.nv.us/personnel/](http://www.state.nv.us/personnel/)

April 29, 2003

The Honorable Ann O'Connell, Chair  
Senate Government Affairs Committee  
Nevada State Legislature  
401 South Carson Street  
Carson City, Nevada 89701

Dear Senator O'Connell:

This letter is to clarify the information provided to Senate Government Affairs on April 23 in regard to AB 217.

The majority of the Committee's questioning revolved around Section 24, subsection 8. This provision would allow employees to use the cash equivalent of their annual leave to satisfy an overpayment. There are a number of reasons an employee may be overpaid. Examples include an employee receiving standby pay when he is not eligible, late recording of leave without pay, or an improperly processed merit salary increase. Employees would also be able to use this provision to pay off their "anti-week".

As we explained, prior to 1999, the State had a one-week lag in pay due to the anticipated week (paying employees for one week for which we anticipated they would work but had not yet been recorded). Through the conversion to the new payroll system in March 1999, we eliminated the anticipated week and went to a two-week lag in pay. In order to ensure employees received a paycheck reflecting a full two weeks of pay, we chose to record the anticipated week in the system and collect it when employees terminate. No employee received more than his or her normal pay during this conversion period.

Currently, when employees terminate, they are paid for the two previous weeks, but if they still owe the anticipated week, the system deducts this amount from their final pay. Some employees have chosen to pay off their anticipated week so they won't have this deduction when they leave State service. The provision in AB 217 simply provides another option for

employees who wish to pay off their anticipated week prior to termination. There are no additional costs to the State budget related to this provision.

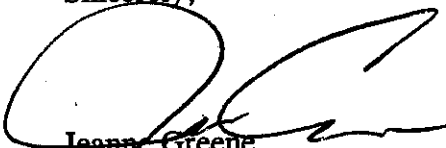
**FORECAST FOR ANTICIPATED WEEK COLLECTION**  
**Central Payroll**  
**Anti-week Balance History**

	Employees	Amount
Opening Balance, 03/12/1999	12,199	8,707,054.10
Current Balance, 04/27/03	7,885	5,601,954.74
Collected 03/12/99 - 04/27/03	4,314	3,105,099.36
Percentage Collected	35.36%	35.66%

In addition, you and Senator Tiffany asked if there was a definition of "essential functions" in the NRS. As we explained, the definition resides in Chapter 284 of the Nevada Administrative Code. If the committee wants to provide definition in statute, we recommend NRS 284.015 be amended as follows, *essential functions of a position has the meaning set forth in The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the provisions of 29 C.F.R. Part 1630.*

Thank you for your consideration of AB 217. Please contact me at 684-0101 if I can provide further clarification or you have any questions.

Sincerely,

  
Jeannette Greene  
Director

JG:cp

cc: ✓ Michael Stewart, Senior Research Analyst, Research Division, Legislative Counsel Bureau  
Linda Law, Policy Analyst/Legislative Liaison, Office of the Governor

This amendment allows for the repayment of any compensation overpayment through the cash-out of annual leave. The primary reason for the requested revision is to provide another option for employees to repay what is called the "anticipated week". The term "anticipated week" comes from a procedure that was used in the Legacy Payroll System. The Legacy System used two primary time periods for each payroll cycle. The time periods are described as follows:

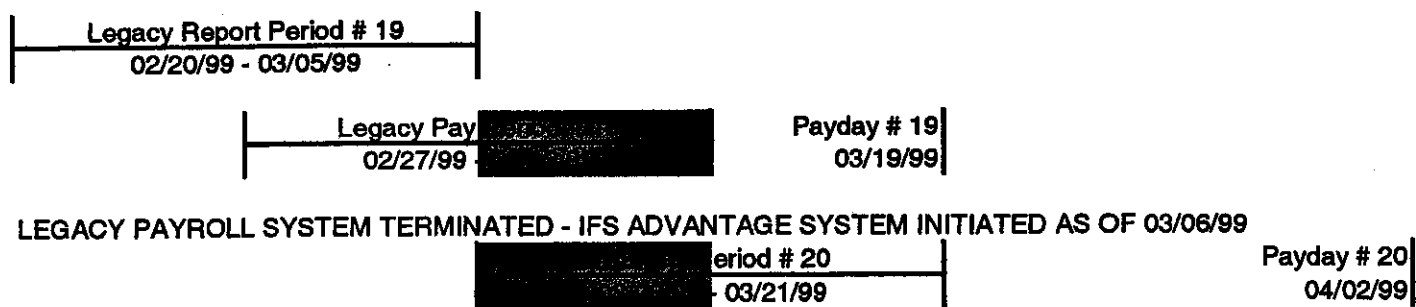
- **Report Period** - A two-week period ending two weeks prior to payday. This is the time period for which employees reported their actual time worked on a Bi-Weekly Time Sheet.
- **Pay Period** - A two-week period ending one week prior to payday. This is the time period for which the system calculated and paid the employee.

The Legacy System procedure paid employees for a week of time that was not yet reported on their timesheets. The system anticipated the number of hours that an employee would work for this week. This practice placed the State at a high risk for over and underpayments to employees. It was also confusing to employees and difficult to understand. A legislative committee studying the State Personnel System recommended that the anticipated week be eliminated. It was determined that the most viable solution for eliminating the anticipated week was with the implementation of the new IFS-HR payroll system, which occurred on March 06, 1999. This option was chosen because it ensured no cash flow impact on employees or the State.

If you were employed with the State during this conversion your last paycheck from the Legacy System would have paid you for the period of February 27, 1999 through March 12, 1999. Your first paycheck from the new system covered the period of March 6, 1999 through March 21, 1999. These two periods overlapped each other by one week from March 6, 1999, through March 12, 1999. In effect, employees were paid twice for the same week; although, this only occurred on paper. Employees actually received the same pay they would have if the conversion never occurred. The amount of the overlapped week was calculated and is noted on each employees paycheck stub. When an employee terminates this amount will be deducted from their final paycheck. This is where the paper trail becomes apparent. If an employee were to terminate employment at the end of a given reporting period in the Legacy System they would have received one weeks pay. Under the new system the employee will be owed two weeks of pay; although, the anticipated week will be deducted and they will receive approximately one weeks pay. It is important to note that any employee hired after March 12, 1999, is unaffected by the anticipated week.

The revision contained in this bill simply allows employees the option of cashing out annual leave to pay off their anticipated week prior to termination.

**REPORT AND PAY PERIOD DEMONSTRATION  
CONVERSION OF PAYROLL SYSTEM FROM LEGACY TO IFS ADVANTAGE**



**[Shaded Area]** = Anticipated Week of 03/06/99 - 03/12/99

SECTION	NRS	PURPOSE				COMMENTS
		Clean-up	Hours of Operation	Compensation/ Benefits	Designation of Bad Debt	
	281.110		X			Allows flexibility for hours of operation to best suit client population and maximize resources
	284.065	X				Clarify authority to adopt regulations
	284.105	X				Clarify authority to adopt regulations and clarify recruitment only for classified service
	284.121	X				Removes redundancy by combining with NRS 284.285
	284.135	X				Clarify authority to adopt regulations
	284.150	X				Clarifies composition of the classified service
	284.155	X				Clarify authority to adopt regulations
	284.175	X				Clarify authority to adopt regulations
	284.180	X				Clarify authority to adopt regulations
	284.205	X				Clarify authority to adopt regulations
	284.210	X				Clarify authority to adopt regulations
	284.240	X				Afford the rights granted by the ADA
	284.250	X				Clarify authority to adopt regulations
	284.290	X				Clarify authority to adopt regulations
	284.295	X				Clarify authority to adopt regulations
	284.305	X				Clarify authority to adopt regulations
	284.317	X				Ensures individuals with disabilities receive accommodation to perform essential functions
	284.325	X				Clarify authority to adopt regulations
	284.327	X				Clarify authority to adopt regulations
	284.335	X				Clarify authority to adopt regulations
	284.340	X				Clarify authority to adopt regulations
	284.343	X				Clarify authority to adopt regulations
	284.345	X				Clarify authority to adopt regulations
	284.350			X		Allows employee to repay an overpayment with accrued annual leave
	284.355	X				Clarify authority to adopt regulations
	284.359	X				Clarify authority to adopt regulations
	284.375	X				Clarify authority to adopt regulations and clarify the meaning of a "transfer"
	284.379	X				Afford the rights granted by the ADA
	284.384	X				Clarify authority to adopt regulations
	284.4064	X				Clarify authority to adopt regulations
	284.4065	X				Clarify authority to adopt regulations
	284.4066	X				Clarifies the scope of pre-employment screening
	284.407	X				Clarify authority to adopt regulations
	227.150	X				Ensures consistency with NRS 284.350
	321.030		X			Ensures consistency with NRS 281.110
	353C.220				X	Allows Clerk of the Board of Examiners to designate \$50 or less as a bad debt.
	532.070		X			Ensures consistency with NRS 281.110
	607.040		X			Ensures consistency with NRS 281.110
	284.285	X				Removes redundancy by combining with NRS 284.121 (Repeals 284.285)
						Allows existing regulations to remain effective
						Effective date of the bill July 1, 2003

TERESA MOIOLA  
Assistant Controller



ALEX ECHO  
Data Processing Manager

OFFICE OF THE  
STATE CONTROLLER

MEMORANDUM

**TO:** Senator Ann O'Connell, Chairman, Senate Government Affairs  
Committee  
Senate Government Affairs Committee Members

**FROM:** State Controller Kathy Augustine *Ka*

**DATE:** 29 April 2003

**SUBJECT:** Clarification on Anticipated Pay Week

AB 217 is being heard in the Legislature, and there is difficulty understanding the anticipated pay week. Therefore, this memo is to document events related to the anticipated pay week so that you have a clear understanding of it.

In FY 1999, GL 2607 was established to record the anticipated pay week for existing employees, which was created when the new payroll system came up. Prior to the new payroll system, employees were paid one week after the pay period ended. The new system pays employees two weeks after the pay period ends. Rather than withhold one weeks pay from existing employees, they were paid normally, but one week was recorded as prepaid wages, to be netted with accrued payroll at year-end. This accounting event was recorded in April 1999 as follows:

<u>GL</u>	<u>DR</u>	<u>CR</u>
2607 Anticipated Pay Week	XX	
2222 Payroll Clearing		XX
2222 Payroll Clearing	XX	
5100 Payroll Expense		XX (this was at the budgetary level)

State Capitol  
101 N. Carson Street, Suite 5  
Carson City, Nevada 89701-4786  
(775) 684-5750  
Fax (775) 684-5696

Grant Sawyer State Office Building  
555 E. Washington Avenue, Suite 4300  
Las Vegas, Nevada 89101-1071  
(702) 486-3895  
Fax (702) 486-3896

www.controller.nv.gov





When one of these employees terminates, they are to be paid in cash for only one week, and the anticipated week is credited. The accounting entry is as follows:

5100 Payroll Expense	XX (for 2 weeks pay; at the budgetary level)
2607 Anticipated Pay Week	XX (for one week's pay)
1000 Cash	XX (for one week's pay)

**In essence, when a pre-1999 employee terminates, the State is only behind paying them one week; when a post-1999 employee terminates, the State is behind paying them by two weeks. The problem arises when the agency neglects to account for this, and pays a pre-1999 employee for two weeks instead of one.**

In addition, please find a copy of the letter we sent out to former state employees informing them that a payroll overpayment had been made. I have also attached copies of letters we have received from former employees questioning the "anti week" payroll overpayment.

A copy of the independent auditors report for our financial statements is included since I understand the question was raised during the hearing on AB 216 yesterday afternoon.



Office of the  
STATE CONTROLLER

CERTIFIED MAIL: 7099 3220 0009 8502 6077

February 13, 2003

Las Vegas NV 89109

Dear Mr.

We have been notified by State Personnel, Central Payroll Division, you owed a total of \$ \_\_\_\_\_ upon your termination from employment. Your agency's Payroll Supervisor, \_\_\_\_\_ previously wrote to you requesting a refund of the overpayment.

Your debt was incurred as a result of the "anticipated week's pay" which occurred when Personnel converted to the new Integrated Financial System in March of 1999. All state employees were paid twice for the week of, March 6-12, 1999. Attached are copies of pay stubs showing the overlapping week, and the letter all employees received informing them the anticipated week's pay would be taken out of their last paycheck upon termination. The agency you worked for did not deduct the anticipated week's pay when you terminated employment.

Since you have not responded, your file has been referred to my office. Nevada law directs the State Controller to collect monies owed the State. Therefore, I am requesting you remit \$ \_\_\_\_\_, payable to the State of Nevada at the above address, within ten working days of receipt of this letter. Should you fail to respond, this matter will be referred to a private collection firm for further action.

I hope this clarifies the reason for the debt. If you have any more questions, please call Sherry Valdez, Accounting Assistant III, at (775) 684-5783, or Christi Thompson, Chief Accountant, at (775) 684-5607.

Sincerely,

  
Kathy Augustine  
State Controller

**JUNE 27, 2001**

**JEANINE COWARD  
ASSISTANT CONTROLLER  
101 N. CARSON STREET  
CARSON CITY, NV 89701**

**DEAR MS. COWARD;**

**IN REGARD TO THE DEBT YOU SAY I OWE, I HAVE ASKED YOU TO PLEASE SHOW ME WHEN THE EXTRA PAYMENT TOOK PLACE. I CANNOT FIND IT IN MY RECORDS. I HAVE NOT HEARD FROM YOU ON THIS REQUEST, AND SO I THOUGHT YOU HAD MADE AN ERROR.**


**IF, IN FACT, YOU CAN SHOW ME HOW I OWE MONEY, I WOULD BE GLAD TO MAKE PAYMENTS TO RECTIFY THE PROBLEM.**

**I HAVE TRIED REPEATEDLY TO CALL YOU. I ONLY GET A RECORDING. YOU MAY CALL ME AT WORK, AT [REDACTED] ALSO PLEASE NOTE MY ADDRESS CHANGE.**

**I WOULD LIKE VERY MUCH TO RESOLVE THIS MATTER.**

**SINCERELY,**

[REDACTED]



May 27, 2002

Jeannine Coward  
Assistant Controller  
Office of the State Controller  
101 N. Carson St., Suite 5  
Carson City, NV 89701-4786

RE: Certified Mail: 7099 3220 0009 8502 5551

Dear Ms. Coward:

I have received your letter demanding payment of a state overpayment made when I retired from State service. I find your explanation significantly different from the process I encountered. Prior to taking further action I request you review the complete record and determine whether and to what amount any remaining overpayment might be.

My recollection of this process is not as appears reported to you. I retired from State service in 1999. At that time I complied with all requests made. In 2000 I received notice of a review audit about the final payment which at that time I was advised included the "one week overpayment". At the conclusion of the review the overpayment was settled. You should also note that for a "one week" overpay, \$1,675 is more nearly the biweekly total salary payment than a single week of overpayment! My settlement was in full compliance with documentation received from the state agency and I have received no further information about this matter since then.

Finally, I have formally replied to each contact received from state offices in this matter. It would seem there is a total disconnect within the state offices on this matter and I believe it is overdue to correct the situation. I await your further information.

I am returning this reply via Certified Mail to ensure receipt by you. If there is a remaining debt owed the state I am sure we will quickly resolve it - but at the present this seems to be more of a misplacing of records than lack of payment.

Thank you.



[REDACTED]  
[REDACTED]

Kathy Augustine, State Controller  
101 N. Carson Street, Suite 5  
Carson City, Nevada 89701-4786

Dear Ms. Augustine:

There are some inaccuracies in your certified letter of February 25, 2003, which I received an hour ago.

Michelle Swerdling never wrote to me. At least, I never received a letter from her.

On April 4, 2002, I received a letter from Kathleen Curran, Payroll Manager, Department of Corrections, Nevada, by certified mail. I responded to her letter on April 5, a day later by certified mail. Do you have copies

## Independent Auditor's Report

The Honorable Kathy Augustine  
State Controller

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nevada, as of and for the year ended June 30, 2002, which collectively comprise the State's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the State of Nevada's management. Our responsibility is to express opinions on these financial statements based on our audit. We did not audit:

### Government-Wide Financial Statements

- the financial statements of the Housing Division, which represent 64.5 percent of the assets and 16.1 percent of the revenues of the business-type activities;
- the financial statements of the University and Community College System of Nevada and the Colorado River Commission, both of which are discretely presented component units.

### Fund Financial Statements

- the financial statements of the Housing Division Enterprise Fund;
- the financial statements of the Self Insurance and Insurance Premiums Internal Service Funds, which in the aggregate represent less than one percent of the assets and 8.2 percent of the revenues and additions of the aggregate remaining fund information;
- the financial statements of the Pension Trust Funds, which in the aggregate represent 87.4 percent of the assets and 20.2 percent of the revenues and additions of the aggregate remaining fund information.

Those financial statements were audited by other auditors whose reports thereon have been furnished to us, and our opinion, insofar as it relates to the amounts included for the above-mentioned funds and entities, is based on the report, of the other auditors.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit and the reports of other auditors provide a reasonable basis for our opinions.

ent fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nevada, as of June 30, 2002, and the respective changes in financial position and cash flows, where applicable, thereof and for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 16 to the financial statements, the State of Nevada adopted the provisions of Governmental Accounting Standards Board Statement No. 34, *Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments*; Statement No. 35, *Basic Financial Statements - and Management's Discussion and Analysis - for Public Colleges and Universities*; Statement No. 37, *Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments: Omnibus*; and Interpretation No. 6, *Recognition and Measurement of Certain Liabilities and Expenditures in Governmental Fund Financial Statements*, as of July 1, 2001. This results in a change in the format and content of the basic financial statements.

In accordance with *Government Auditing Standards*, we have also issued our report on our consideration of the State of Nevada's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grants. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

Management's discussion and analysis on pages 19 through 30; and the budgetary comparison schedule, the notes to required supplementary information-budgetary reporting, the schedule of funding progress, and the schedule of infrastructure condition and maintenance data, collectively on pages 95 through 100, are not required parts of the basic financial statements but are supplementary information required by the Governmental Accounting Standards Board. We and the other auditors have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the State of Nevada's basic financial statements. The combining statements and schedules as listed in the table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements. The combining statements and schedules have been subjected to the auditing procedures applied by us and the other auditors in the audit of the basic financial statements and, in our opinion, based on our audit and the reports of other auditors, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

The introductory and statistical sections as listed in the table of contents have not been subjected to the auditing procedures applied by us and the other auditors in the audit of the basic financial statements and accordingly, we express no opinion on them.

*Kafoury, Armstrong & Co.*

Reno, Nevada  
December 13, 2002

**KAFOURY, ARMSTRONG & CO.**  
A PROFESSIONAL CORPORATION  
CERTIFIED PUBLIC ACCOUNTANTS

1413