

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

Explanation of Change: Due to the recent terrorist act on the World Trade Center and the Pentagon and subsequent homeland defense and military action, some State employees who are members of the National Guard or Reserve are being called to active military service. State employees whose State pay is greater than their military pay will experience an economic hardship due to being called to active service. This proposed regulation allows employees to receive the difference between their State pay and their military pay so they will not suffer a financial loss during service to our country.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Extended Military Leave For Active Military Service

An employee who performs active military service in the Army, the Navy, the Marine Corps, the Air Force, the Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, the Air Force Reserve, the National Guard, Commissioned Corps of the Public Health Service, and any other category of persons designated by the President or the Governor of the State of Nevada in time of war or emergency is entitled to be paid the difference between the gross wages he would have received as a State employee and the gross wages of an active service member. If his gross wages for active service exceed his gross wages as a State employee, he is not entitled to any additional wages beyond those provided due to active military service.

Explanation of Change: This amendment is necessitated by Assembly Bill 386 of the 2001 Legislative session. Nevada Revised Statute 284.171 was amended to clarify classes are allocated to occupational "groups".

Sec. 2. NAC 284.132 is hereby amended to read as follows:

NAC 284.132 Temporary classifications. (NRS 284.155)

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 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 class before this method may be used. The classification must be approved by the department of personnel before the appointment.

(b) An employee who is appointed to 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) Retains his status of appointment; and

(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, pay progression date and status of appointment he would have attained if he had not been appointed to the temporary class.

3. An employee who is promoted pursuant to this section must receive a new pay progression date 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]~~ group, as provided in NRS 284.171.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 10-27-97; R043-99 & R098-99, 9-27-99)

Explanation of Change: This amendment is necessitated by Assembly Bill 95 of the 2001 Legislative session. Nevada Revised Statute 284.340 was amended to remove the 30-day grace period for filing a subsequent report on performance with the Director of Personnel when the employee has received a substandard evaluation. Now, an employee's performance is assumed to be standard if a subsequent report on performance is not received on or before the date it is due.

Sec. 3. NAC 284.194 is hereby amended to read as follows:

**NAC 284.194 Granting or withholding of increase in salary based on merit.
(NRS 284.155, 284.335)**

1. An employee whose last rating of performance was standard or better and who has not attained the top step of his grade must receive an increase in his salary based on merit of one step on his pay progression date and each year thereafter of employment equivalent to full-time service until he reaches the top of the grade unless he receives a subsequent rating of performance which is substandard.

2. An employee whose last rating of performance was substandard is not eligible for an increase in his salary based upon merit. Such an employee is only entitled to receive an increase in salary based on merit on the date designated and recorded on a subsequent report on performance as the date on which his overall performance improved to standard or better. If a subsequent report on performance is not filed with the director ~~[within 30 days after]~~ *on or before* the date required by subsection 4 of NRS 284.340, the employee's performance will be deemed standard and he will be entitled to the increase effective on the date the report on performance was due. The date a report is received by the director or an employee of the department of personnel is the date it is filed.

3. If an increase in salary based on merit is withheld as provided in subsection 2, the employee's pay progression date must not be affected.

4. Except as otherwise provided in NAC 284.202, no retroactive payment of an increase in salary based on merit may be given.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; R031-98, 4-17-98; R043-99, 9-27-99)

Explanation of Change: This amendment is necessitated by Senate Bill 570 of the 2001 Legislative session. Nevada Revised Statute 284.3775 was amended to allow additional time to an employee of the Nevada Legislative branch of government to transfer to the classified service at the conclusion of the regular session.

Sec. 4. NAC 284.398 is hereby amended to read as follows:

NAC 284.398 Transfer to classified service.

1. An unclassified employee who has less than 4 months of service and whose appointment was immediately preceded by an appointment in the classified service in which the person was a permanent employee may transfer back into the classified service under the same conditions and with the same benefits as classified employees, except that the duties and compensation of the position to which the person is transferred must be similar, as determined by the department of personnel, to either the unclassified position or to a previously held classified position.

2. Employees of any governmental agency which is acquired for administration by the state pursuant to NRS 284.022 may transfer into the classified service or unclassified service with the rights and benefits authorized by the legislature.

3. An employee who transfers into the classified service:

(a) Must complete an application and meet the minimum requirements for qualification to the class of the position to which he is transferring;

(b) Must have his date of transfer and appointment to the classified position effective immediately following the last day of employment in the unclassified or nonclassified position *unless he was a legislative employee employed at the conclusion of a regular session as provided in NRS 284.3775*; and

(c) May retain the credits which he has earned for annual and sick leave and longevity.

4. A transfer of an employee to a similar class requires the approval of the department of personnel.

[Personnel Div., Rule VI § D subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; 1-22-90; 8-1-91; 3-23-94)

Explanation of Change: This amendment, proposed by the Department of Personnel, requires employees at a grade 20 or above to serve a one year probationary period. This change will allow an appropriate amount of time for a supervisor to evaluate the performance of an employee and simplify the record keeping procedures for most positions. An employee who was hired prior to the effective date of this regulation would not be subject to a longer probationary period than was required on his date of appointment.

Sec. 5. NAC 284.442 is hereby amended to read as follows:

NAC 284.442 Length of probationary period. All classes at grade ~~[23]~~ 20 or higher must be assigned a 1-year (full-time equivalent) probationary period. All classes lower than grade ~~[23]~~ 20 will be assigned a 6-month (full-time equivalent) probationary period.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84)

Explanation of Change: This amendment, proposed by the State of Nevada Employees Association, allows for an employee's holiday pay to equal his normally scheduled shift when he has the day off because of the holiday.

For example: An employee who normally works forty hours per week and whose regularly scheduled shift is:

8 hours would receive 8 hours of holiday pay
10 hours would receive 10 hours of holiday pay

Please note: The Department of Personnel has recommended revisions to this section as part of a comprehensive review of the Compensation Section.

Sec. 6. NAC 284.526 is hereby amended to read as follows:

NAC 284.526 Computation of payments for holidays. (NRS 284.155, 284.345)

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]~~ *this section*, 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]~~ *the same number of* hours of holiday pay *as the number of hours in his normally scheduled shift*.

4. Except as otherwise provided in ~~[subsections 11 and 12]~~ *this section*, 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 *such* 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 ~~[subsections 11 and 12]~~ *this section*, an employee who ~~[works any portion of a legal holiday]~~ *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. ~~[An employee who has an established innovative work week agreement 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 up to the number of hours of his established workday.]~~ Any hours worked ~~[by the employee that exceed his established workday, under the innovative work week agreement,]~~ *in addition to the normally scheduled shift of an employee* 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]~~ *this section*, 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.]~~ 7. 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, use compensatory time 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.]~~ 8. 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.]~~ 9. 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.]~~ 10. 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.]~~ 11. 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.]~~ 12. 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,]~~ 8.

13. *The provisions of this section* 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.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]--(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99)

Explanation of Change: This amendment, proposed by the Committee on Catastrophic Leave, clarifies that serious calamities requiring a "lengthy convalescence" would require an employee to be unable to perform the duties of his position for at least 10 consecutive weeks. Unless an employee's condition was life threatening, absences requiring less time do not reflect the intent of the statute granting catastrophic leave.

Sec. 7. NAC 284.575 is hereby amended to read as follows:

NAC 284.575 Catastrophic leave: Interpretation of certain statutory terms. As used in NRS 284.362:

1. "Lengthy convalescence" means a period of disability which an attending physician expects to exceed 10 *consecutive* weeks.
2. "Life threatening" means a condition which is diagnosed by a physician as creating a substantial risk of death.

(Added to NAC by Dep't of Personnel, eff. 8-14-90)

Explanation of Change: An amendment to subsection 4 is necessitated by the amendment to Chapter 284 by Assembly Bill 285 of the 2001 Legislative Session which provides for an appeals committee for Catastrophic Leave. The amendment to subsection 2 is proposed by the Committee on Catastrophic Leave to require an employee to submit documentation from his physician to substantiate his need for leave time.

Sec. 8. NAC 284.576 is hereby amended to read as follows:

NAC 284.576 Catastrophic leave: Use; notice; powers and duties of appointing authority.

1. An account for catastrophic leave may be established for an employee when he or a member of his immediate family experiences a catastrophe and the employee has used all of his accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his personal use after the balance of all of his leave has been used. *This request must be accompanied by a physician's statement, on the appropriate form, which substantiates the need for the leave.*

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The ~~[approval or denial of the request is at the discretion of the]~~ appointing authority *may approve or deny the request for catastrophic leave* ~~[, who shall take]~~ *taking* into consideration the nature of the catastrophe and the expected duration of the leave. *This decision can be*

appealed to the committee on catastrophic leave as provided in NRS 284 as amended by Assembly Bill 285.

5. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his appointing authority on the appropriate form of his intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

6. A donor and his appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

7. The appointing authority shall provide the following information on a calendar year basis or as requested by the director:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection 8, donating or using catastrophic leave, his grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection 6, or used by the employee;

(b) The period and nature of the disability for each employee using catastrophic leave; and

(c) A comparison of the average dollar value of the accounts for catastrophic leave based on the average rate of pay of the donors and the average dollar value of the leave taken by the recipients.

8. The appointing authority shall assign numbers to employees for the purposes of subsection 7 in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

9. Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

10. As used in this section, "immediate family" has the meaning ascribed to it in NAC 284.562.

(Added to NAC by Dep't of Personnel, eff. 10-18-89; A 8-14-90; 3-23-94)

<p>Explanation of Change: This amendment is necessitated by Assembly Bill 386 of the 2001 Legislative session. Chapter 281 of Nevada Revised Statute was amended to allow an emergency communication technician to be relieved from his duties to assist the Emergency Management Division or a local organization for emergency management during certain disasters or emergencies as described in NRS 414.0335 and NRS 414.0345.</p>

Sec. 9. NAC 284.587 is hereby amended to read as follows:

NAC 284.587 Civil leave with pay for acting as a fireman or meeting other emergency. Civil leave with pay must be granted to an employee who meets the requirements of NRS

284.357 and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a ~~public~~ *disaster or* emergency.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

Explanation of Change: This amendment is necessitated by Assembly Bill 386 of the 2001 Legislative session. Nevada Revised Statute 284.171 was amended to clarify a class is allocated to an occupational "group".

Sec. 10. NAC 284.612 is hereby amended to read as follows:

NAC 284.612 Layoffs: Definitions. For the purposes of NAC 284.612 to 284.630, inclusive:

1. "Geographical location" means:

- (a) Clark, Lincoln, Nye, and Esmeralda counties;
- (b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral, and Washoe counties;
- (c) Pershing, Humboldt, Elko, Lander, Eureka, and White Pine counties; or
- (d) Any city located outside of this state.

2. "Option" means a clearly identified subclassification mentioned in the class specification approved by the commission.

3. "Seniority" is computed from the total time spent during currently continuous state service by doubling the time spent in the present occupational ~~class~~ *group*, as defined in NRS 284.171, and adding it to the time spent in all former occupational classes. If seniority is otherwise equal, a choice must be based first, on total time within the occupational class; second, on total time within the department; and third, by lot. For reemployment, ties are broken by lot.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 7-21-89; 11-16-95)

Explanation of Change: This amendment is necessitated by Assembly Bill 95 of the 2001 Legislative session. Nevada Revised Statute 284.340 was amended to remove the 30-day grace period for filing a subsequent report on performance with the Director of Personnel when the employee had received a substandard evaluation. Now, an employee's performance is assumed to be standard if a subsequent report on performance is not received on or before the date it is due.

Sec. 11. NAC 284.614 is hereby amended to read as follows:

NAC 284.614 Layoffs: Procedure. (NRS 284.155, 284.335)

1. Except as otherwise provided in NAC 284.438, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:

(a) The administrator of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the department of human resources and the University and Community College System of Nevada, the administrator of a division, with the approval of the director of the department, shall determine in what geographical location, class series, class and option the reduction of staff will have the least detrimental effect on operations and shall specify the layoffs accordingly.

(b) Within the department, and within the geographical location, class series, class and option selected, all employees of the department who are not permanent must be laid off before any permanent employees in the following order:

- (1) Emergency employees.
- (2) Temporary employees.
- (3) Provisional employees.
- (4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of performance and seniority. In computing seniority, the time covered by a report on performance “below standard” or “unacceptable” made during the last 4 years must not be included, except that no report may be considered for the time covered within 75 calendar days before the notification of layoff was issued. Except as otherwise provided in this paragraph, the time “covered” by a report of substandard performance runs from the date the report was filed with the director until the date recorded on the employee’s subsequent report on performance as the date on which his performance improved to standard or better. If the subsequent report on performance is not filed ~~[within 30 days after]~~ *on or before* the date required by subsection 4 of NRS 284.340, the employee’s performance shall be deemed standard effective on the date the report on performance was due.

(d) In the department and within the geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off.

(e) For the purposes of this subsection, an appointing authority may consider whether positions are full time or part time and limit layoffs to full-time or part-time employees. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.378.

2. When determining seniority for order of layoff:

- (a) Seniority must be projected and counted up to the established date of layoff.
- (b) Seniority for part-time employment must be prorated to its full-time equivalent.
- (c) If a classified employee enters unclassified service and subsequently reenters classified service, his previous and current classified service is counted.
- (d) Except as otherwise provided in NAC 284.580, any combination of authorized leave without pay and catastrophic leave for more than 240 hours or, in the case of an excluded classified employee, 30 working days, in a year, calculated pursuant to subsection 6 of NAC 284.182, is not counted.

(e) When an employee was separated from service with this state for any of the reasons that do not result in a break in continuous service as provided in NAC 284.598, the time during the separation is not counted.

[Personnel Div., Rule XIII § B subsec. 1, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 8-26-83; 8-28-85; 8-22-86; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99)