

**ADOPTED REGULATION OF  
THE PERSONNEL COMMISSION**

**LCB File No. R133-12**

Effective October 4, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-15, NRS 284.065, 284.155 and 284.175; §16 and 17, NRS 284.065, 284.155 and 284.345.

A REGULATION relating to state personnel; revising provisions relating to the rate of pay for employees in the classified service of the State; and providing other matters properly relating thereto.

**Section 1.** Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2.** *Except as otherwise provided in NAC 284.204 and 284.206, if an employee is reinstated, the employee's base rate of pay must be set at or below the base rate of pay of the position which the employee most recently held with the State.*

**Sec. 3. 1.** *The following provisions govern the rate of pay 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 or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.*

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

*(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or*

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

*↳ whichever pay is higher and in accordance with the provisions of section 8 of this regulation.*

*(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.*

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

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

*2. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.*

*Sec. 4. Except as otherwise provided in this section and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:*

*1. If the employee has attained permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is:*

*(a) Equal to his or her present base rate of pay; or*

*(b) Equivalent to a decrease of not more than one step from his or her base rate of pay in the position from which he or she was demoted. Except as otherwise provided in subsection 2, if the base rate of pay in the position from which he or she was demoted does not fall within the grade of the class to which he or she was demoted, the employee must be paid at a step in the grade of the class to which he or she was demoted which is equal to:*

*(1) The step he or she would have received if he or she had not been promoted to the position from which he or she was demoted; or*

*(2) The step he or she would have received if he or she had been employed in that class from the inception of employment with the State of Nevada.*

*2. An exception to paragraph (b) of subsection 1 may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:*

*(a) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.*

*(b) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a*

*maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.*

*(c) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.*

*3. If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.*

*4. If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by subsection 2, the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.*

*5. If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his or her base rate of pay before the demotion.*

*Sec. 5. Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must maintain the step held before the transfer.*

*Sec. 6. 1. If an employee is reappointed to a position which is in:*

*(a) The grade which he or she currently holds, he or she retains his or her step.*

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

*(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in section 3 of this regulation.*

*2. Any exception to subsection 1 must be approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.*

*Sec. 7. 1. Except as otherwise provided in this section, if a person is reemployed, he or she must be placed at the step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.*

*2. Except as otherwise provided in subsection 3, an exception to subsection 1 may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of that agency or the System. If an exception to subsection 1 is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of reemployment.*

*3. If a person who is eligible for military reemployment is reemployed, the provisions of subsection 1 apply except that the period of the military service must be included in calculating the step at which he or she will be placed.*

**Sec. 8.** *An employee who has been continuously employed without a break in service may not have his or her step set below:*

- 1. Step 4 of any grade if his or her date of hire is before April 26, 1973; or*
- 2. Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.*

**Sec. 9.** *1. Except as otherwise provided in subsection 2, if 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 or she may, at the discretion of the appointing authority:*

- (a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;*
- (b) Be paid at the first step in the new grade to which he or she is appointed; or*
- (c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.*

*2. An exception to subsection 1 may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.*

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

**Sec. 10.** NAC 284.132 is hereby amended to read as follows:

284.132 1. An appointing authority, an employee or the Division of Human Resource Management 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 Division of Human Resource Management 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 or she:

(a) Retains his or her 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 or her previous class is entitled to the step, pay progression date and status of appointment he or she would have attained if he or she had not been appointed to the temporary class.

3. The pay progression date of an employee who is promoted pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay for the employee will be determined in accordance with the provisions of ~~NAC 284.170~~ *section 3 of this regulation* governing an employee's pay on promotion.

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

**Sec. 11.** NAC 284.134 is hereby amended to read as follows:

284.134 1. An incumbent who meets the minimum qualifications for an individual reclassification as provided in NAC 284.126 may be reclassified to a higher level. If the incumbent's position is reclassified as a result of an individual classification study, the incumbent will continue to serve in the position and:

- (a) Must be promoted;
- (b) Retains his or her status of appointment; and
- (c) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The pay progression date of an employee who is reclassified pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay will be determined in accordance with the provisions of ~~NAC 284.170~~ *section 3 of this regulation* governing an employee's pay on promotion.

**Sec. 12.** NAC 284.138 is hereby amended to read as follows:



284.138 1. Except as otherwise provided in subsections 3 and 4, if a class or a position within a class is reclassified or reallocated to a higher grade as a result of an occupational study, the incumbent will continue to serve in the position and:

(a) Must be promoted;

(b) Retains his or her status of appointment;

(c) Retains his or her pay progression date; and

(d) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The rate of pay for employees who are promoted will be determined in accordance with the provisions of ~~NAC 284.170~~ *section 3 of this regulation* governing an employee's pay on promotion.

3. The provisions of subsection 1 do not apply to an incumbent who is filling a position in a class which is at a lower grade than the authorized level of the position unless the class held by the incumbent is reclassified or reallocated to a higher grade.

4. If a position is reclassified to a higher grade in a different occupational group, the employee must meet the minimum qualifications of the higher level position before he or she is promoted. If the employee does not meet the minimum qualifications, he or she must not be promoted, the position will be temporarily reclassified pursuant to NAC 284.132 and the employee may be eligible for a special adjustment to his or her pay as provided in NAC 284.206. If the employee does not meet the minimum qualifications within 1 year after the effective date of the reclassification, the duties must be reassigned and the position must be reclassified accordingly.

**Sec. 13.** NAC 284.140 is hereby amended to read as follows:

284.140 1. If a class or position is reclassified to a lower grade, the incumbent's title and grade must be changed to the new class. He or she will retain his or her status of appointment and pay progression date. The rate of pay will be determined by the provisions of NAC 284.290 governing an employee's pay on retained rates or, if the employee does not meet these requirements, by the provisions of ~~NAC 284.170~~ *section 4 of this regulation* governing an employee's pay on demotion.

2. The employee is eligible for reappointment to the same or a similar class from which he or she was reclassified.

3. The employee is entitled to reemployment rights to his or her former class and option in his or her department for 1 year after the date of notification of the reclassification to the lower grade if the employee and the agency provide the necessary information regarding the employee's seniority on the prescribed form.

4. If the employee is receiving a retained rate of pay and declines the first opening which is offered for his or her previous class in his or her department and location, the employee forfeits his or her reemployment rights to the former class and must be immediately reclassified to the lower grade and the provisions of this chapter governing the pay of an employee on demotion apply.

**Sec. 14.** NAC 284.170 is hereby amended to read as follows:

284.170 ~~1-1~~ Except as otherwise provided in NAC 284.204 ~~regarding adjustment of steps within the same grade~~ and ~~NAC~~ 284.206 ~~regarding special adjustments to pay, the following provisions govern the grade and the step at which an employee must be paid at the time of employment:~~

~~—(a) If the~~ , upon employment *that* is an initial appointment, the employee's base rate of pay must be set at step 1 of the grade of the position's class.

~~{(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 or she must be paid at or below the step held in his or her former position.~~

~~——(2) At a lower grade than the employee's former position, he or she must be paid at or below the step in the lower grade which most closely corresponds to the base rate of pay of his or her former position.~~

~~——(3) A result of the reallocation of the entire class because of a reclassification or a general pay increase, he or she must be paid at or below the step in the new grade which most closely corresponds to the base rate of pay of his or her former grade.~~

~~—2. The following provisions govern the rate of pay 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 or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.~~

~~——(2) If the employee moves three or more grades above his or her former grade, the employee must be placed:~~

~~——(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or~~

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

~~→ whichever pay is higher and in accordance with the provisions of subsection 8.~~

~~—(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.~~

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

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

~~—3. Except as otherwise provided in this subsection and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:~~

~~—(a) If the employee has attained permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is:~~

~~——(1) Equal to his or her present base rate of pay; or~~

~~——(2) Equivalent to a decrease of not more than one step from his or her base rate of pay in the position from which he or she was demoted. Except as otherwise provided in paragraph (b), if the base rate of pay in the position from which he or she was demoted does not fall within the grade of the class to which he or she was demoted, the employee must be paid at a step in the grade of the class to which he or she was demoted which is equal to:~~

~~——(I) The step he or she would have received if he or she had not been promoted to the position from which he or she was demoted; or~~

~~——(II) The step he or she would have received if he or she had been employed in that class from the inception of employment with the State of Nevada.~~

~~—(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 grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:~~

~~——(1) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.~~

~~——(2) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.~~

~~——(3) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.~~

~~—(c) If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.~~

~~—(d) If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by paragraph (b), the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.~~

~~—(e) If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his or her base rate of pay before the demotion.~~

~~—4. Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must be placed at the corresponding step in the same grade that he or she held before the transfer. Any exception to this subsection must be:~~

~~—(a) Based on the provisions of NAC 284.204; or~~

~~—(b) Approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.~~

~~—5. If an employee is reappointed to a position which is in:~~

~~—(a) The grade which he or she currently holds, he or she retains his or her step.~~

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

~~—(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in subsection 2.~~

~~➔ Any exception to this subsection must be approved by the Division of Human Resource Management 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, he or she must be placed at the step which he or she last held in that grade.~~

~~—(b) A lower grade, he or she must be placed at a step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.~~

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

~~➔ An exception to this subsection may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of that agency or the System. If an exception is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of reemployment.~~

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

~~—8.— An employee who has been continuously employed without a break in service may not have his or her step set below:~~

~~—(a) Step 4 of any grade if his or her date of hire is before April 26, 1973; or~~

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

~~—9.— Except as otherwise provided in this subsection, if 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 or she may, at the discretion of the appointing authority:~~

~~—(a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;~~

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

~~—(c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.~~

~~➔ An exception to this subsection may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.~~

~~—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 or she received at the time he or she left the classified service, unless he or she has held the unclassified or nonclassified position for more than 1 year.~~

~~—11.— As used in this section, “present level of pay” means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee’s pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.]~~

**Sec. 15.** NAC 284.4375 is hereby amended to read as follows:

284.4375 1. For the purposes of this section, “automatic advancement” or “automatically advanced” means the progression of an employee to the authorized grade of the position, but not



exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

- (a) Meeting minimum qualifications;
- (b) Satisfactory performance; and
- (c) Endorsement by his or her appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in ~~subsection 2 of NAC 284.170,~~ *section 3 of this regulation*, governing an employee's pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he or she was automatically advanced, the employee retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he or she was automatically advanced, the employee must remain in probationary status in the new class until he or she has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

**Sec. 16.** NAC 284.587 is hereby amended to read as follows:

284.587 Civil leave with pay must be granted to an employee who meets the requirements of NRS *281.149 or* 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a *state of emergency or declaration of* disaster

~~for emergency.~~ *proclaimed by the Governor or by resolution of the Legislature pursuant to NRS 414.070.*

**Sec. 17.** NAC 284.588 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**284.588 Civil leave with reduced pay when performing certain service in time of war or emergency.** (NRS 284.065, 284.155, 284.175, 284.345) An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he or she would have otherwise received as a state employee and his or her pay for active military service. If the pay for active military service is greater than the pay he or she would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he or she is in active military service.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File #R133-12**

**1. A clear and concise explanation of the need for the adopted regulation.**

In order to ease understanding and application of the rules related to determining the appropriate rate of pay, portions of NAC 284.170 have been separated into topic-specific sections. The creation of “new” regulations will result in a reduction of errors when determining the appropriate rate of pay. As a result of these changes, it was also necessary to change the reference from NAC 284.170 to the appropriate “new” section in several regulations.

In order to assist agencies with consistent application of civil leave for emergencies and disasters, NAC 284.587 was amended to include civil leave for duty as an emergency communications technician as outlined in NRS 281.149.

NAC 284.588 duplicates statute so it was repealed.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the Division of Human Resource Management website, emailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building	Grant Sawyer State Office Bldg.
209 E. Musser Street	555 E. Washington Blvd.
Carson City, NV 89701	Las Vegas, NV 89101
Nevada State Library and Archives	Capitol Building
100 Stewart Street	Main Floor
Carson City, NV 89701	Carson City, NV 89701
Legislative Building	Gaming Control Board
401 S. Carson Street	1919 College Parkway
Carson City, NV 89701	Carson City, NV 89701

Attached are pertinent minutes from the workshop and the Personnel Commission meeting.

A Regulation Workshop was conducted by the Division of Human Resource Management on June 18, 2012 and a public hearing was held by the Nevada Personnel Commission on December 7, 2012.

3. **The number of persons who:**
- (a) **Attended each hearing:** December 7, 2012 – 37
  - (b) **Testified at each hearing:** December 7, 2012 – 2
  - (c) **Submitted written comments:** 0
4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Ron Cuzze, President  
State of Nevada Law Enforcement Officers Association  
(702) 736-4460  
rcuzze@earthlink.net

Peter Long, Deputy Administrator  
State of Nevada Human Resource Management Division  
209 E. Musser St., Room 101  
Carson City, NV 89701  
(775) 684-0103  
plong@admin.nv.gov

Shelley Blotter, Deputy Administrator  
State of Nevada Human Resource Management Division  
209 E. Musser St., Room 101  
Carson City, NV 89701  
(775) 684-0105  
sblotter@admin.nv.gov

Carrie Hughes, Personnel Analyst  
State of Nevada Human Resource Management Division  
209 E. Musser St., Room 101  
Carson City, NV 89701  
(775) 684-0111  
cphughes@admin.nv.gov

Carrie Parker, Deputy Attorney General  
Attorney General's Office  
CParker@ag.nv.gov

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. No written comments were received. Comments from the workshop can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation changes in this file are a result of a comprehensive examination conducted by the Division in response to the Governor's request for State agencies to review regulations that are subject to its enforcement.

Initially, meetings were held with State agencies to solicit input regarding which regulations were problematic and/or hampered efficient business. Subsequently, a regulation workshop was held to gain additional input from all interested parties, including employee associations. Based upon the input received, changes were made to the proposed regulations.

Sections 2-9 are proposed as "new" regulations. These new regulations are currently portions of NAC 284.170 which has been separated into topic-specific sections to ease understanding and application. Only the language in sections 2, 5, and 7 were changed to simplify the current language with the intended result of reducing errors when determining the appropriated rate of pay.

Sections 10-13 and 15 simply change the previous references to NAC 284.170 to the new sections that apply. Section 14 amends NAC 284.170 to remove language that was placed into a new section.

Section 16 clarifies that civil leave must be granted for a leave of absence for duty as an emergency communications technician as outlined in NRS 281.149.

Section 17 repeals NAC 284.588 which duplicates statute.

Testimony was heard and all sections of the regulation were unanimously adopted by the Personnel Commission.

**7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

- (a) Estimated economic effect on the businesses which they are to regulate.**
- (b) Estimated economic effect on the public which they are to regulate.**

These regulations do not have a direct economic effect on either a regulated business or the public. They only impact the classified service of Executive Branch departments and the Nevada System of Higher Education.

**8. The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of these regulations.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

10. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

These regulations do not include any provisions that are more stringent than any federal regulation.

11. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

No fees are associated with these regulations.

#### **Pertinent Testimony from Regulation Workshop Held June 18, 2012**

**Shelley Blotter:** Asked for a show of hands from individuals who were in support of breaking apart 284.170 into separate topics. The participants were asked by a show of hands on how many were opposed to that. Some participants had not decided, but it appears that the majority like it separated. By a show of hands it also appeared that there was support for the changes in sections, 284.182, 284.204, 284.587, 284.893, 284.440 and 284.494. The participants were then asked again if anyone would like to make comments of any kind on those sections.

**Kimberley King:** Proposed that section 12, 284.204(1)c be removed. Merit increases are earned by employees for their performance on the job. The employee is of progressively greater value to the State for their experiences on the job. Classification is what determines what the supervisor should get paid. So you're already compensating the supervisor based on the classification of their position at a greater grade. Why should the supervisor actually get paid just for supervising an employee who has been of progressively greater value to the State for all those years?

**Peter Long:** Didn't have problem with that recommendation. This was proposed six or seven years ago, possibly by DPS. This proposed amendment is an attempt limit the number steps to a two step differential. Some agencies have increased someone from a step 1 to a step 10 using this particular regulation.

**John Scarborough:** We're fine with the amendment of adding the not to exceed two steps, but we would be against deleting the provision altogether. We want the flexibility to do this if we needed to.

**Priscilla Maloney:** AFSCME is in agreement with Mr. Scarborough's comments. It is recognized that the State is trying to control costs wherever they can, but it would be preferable to maintain this provision with a cap of 2-steps. It does give an appointing authority some flexibility to do the things they may feel they need to do in either a recruitment or an adjustment.

**Amy Davey:** Questioned whether this particular section is used to make an adjustment where something is out of alignment and a supervisor may not be making more than the employee they supervise?

**Peter Long:** That is correct. There are times where, as Ms. King noted, that a new supervisor makes less than a subordinate who has been with the State longer. This allows them to adjust the supervisor's steps to be compensated more than his/her subordinate.

**Amy Davey:** In that case, I would like to see this language stay to allow for some flexibility to make those changes. In one of our divisions this situation has already occurred because of the occupational study that didn't go through two legislative sessions ago; a supervisor is making less than their employee.

**Kareen Masters:** Supports the proposal to include the not exceed 2-steps language, retaining flexibility in the regulation.

**Kimberley King:** Requested clarification regarding which position is being referred to in the phrase "to the base rate of pay of his or her former position" as used in Section 2. What if they held a different position and then they changed and they are re-stating to, not the last position, but a previous position? It wasn't clear.

**Peter Long:** Stated the proposed language in Section 2 is the original language of NAC 284.170 and offered to try to clarify it. The intent of this revision was to keep them equal to what they had been at when they left. Suggestions to clarify the wording were requested.

**Kimberley King:** Suggested to change the wording to most recently held position with the State just to make it clear.

**Peter Long:** Offered the wording to say "which most closely corresponds to the base rate of pay of his most recently held position."

**Kimberley King:** Stated that it was what she was thinking and would be clearer than former position because that could be any former position.

**Shelley Blotter:** Asked if there were any comments regarding Section 3 Rate of Pay on Promotion.

**Kimberley King:** Thanked the Division regarding the change to Section 3, subsection 1a as it takes care of a problem that they've had in the department.

**Amy Davey:** Questioned the affect of the regulation and asked for clarification. Would the employee retain his steps if for example he was a grade 26, step 10 and then applies for a grade 36, would be placed at a step 10 if he got the job?

**Peter Long:** The employee would be placed at a step 10 unless that exceeds the pay scale and then say you go from a grade 20 to a grade 40, you would come into grade 40 at a step 1. The intent is that it would be within the range of the 10 steps.

**Amy Davey:** Okay. So similar to the way it is now.

**Peter Long:** Right, but you wouldn't be limited. The way it is now, if you promote more than two grades, you're limited to a 10 percent increase. This kind of ties back to what Kimberley was saying earlier. Steps are based on longevity; grade is based on the duties and complexity of a position. So we didn't necessarily see where, if you take a five grade increase why you should be limited to the 10 percent. We are trying to maintain it within those 10 steps, if it goes higher than that, then you would put it in at the step 1.

**Amy Davey:** Asked to verify understanding of the proposal. If my budget was a concern and within a group of candidates for a grade 36 position there is a current State employee who is a grade 26, step 10 and a non-state employee, could this proposal limit the current State employee because that person would be at step 10 in the new position?

**Peter Long:** There could be that situation, but right now, it's almost the other way around where a State employee is limited to those two steps and someone comes in from the outside in an open competitive list and they can use the accelerated rate to get more than what a current State employee can get. We're trying to balance that scale.

**Amy Davey:** Do you have any concern about there being inequity then if I promote into your agency at a higher step than somebody who has been there for four or five years?

**Peter Long:** No, although agencies may have that concern. We haven't had that concern because through the accelerated rate process there is a way to adjust for equity. If I wasn't clear on your earlier question, an employee moving from a Grade 20 to a Grade 40, would go in at a Grade 40, Step 1, because that's more than a Step 10 at a Grade 20. They would go with whatever the higher salary is.

**Kareen Masters:** My concerns are the same ones that Amy had. So if we had an Administrative Assistant III, Grade 27, Step 10, go and get her social work degree, she could go to a Grade 32, Step 10, Social Worker I? So as I'm reading it she would go from a 27, 10 to a 32, 10.

**Peter Long:** That's how it's written. Yes.

**Kareen Masters:** Does have concerns about that. Conceptually people shouldn't typically be limited to the 2-grades. I would have very great concerns about someone who is just entering a



professional field and to bring them in at the top step working side-by-side with our seasoned Social Work staff.

**Peter Long:** We're open to any suggestions you might have. What we were trying to do is simplify and take out some of the language that agencies have problems with and Central Records has problems with. If you want to suggest an in-between or suggest that we take it out completely, we're good.

**Kareen Masters:** Maybe some consideration can be given to the number of grades the person is promoting or maybe it should be handled through the accelerated rate; not limit accelerated rate to open competitive lists. Let people on promotional lists apply for an accelerated rate so that divisions can weigh the different factors to decide whether they want to offer a higher step or not.

**Shelley Blotter/Peter Long:** Agree to pull the section and have additional discussion on it.

**Kimberley King:** Understands the concerns that Amy and Kareen brought up. NDOT is experiencing supervisors who are promoting 3-grades. We want to make sure that they get paid for the full 3-grades, not just limited to 10%. So maybe there's some language that can address all of our concerns.

**Shelley Blotter:** Asks if there are any comments related to Section 4 Rate of Pay on Demotion?

**Peter Long:** Explained that the language for the good of the State was unintentionally left out. If there is agreement, we would like to put that section back in. It's permissive language and it's not mandatory.

**Kareen Masters:** That was my concern. We do have some concerns about subsection 4 and the ability to manipulate someone's pay to a rate that really isn't warranted. If somebody promotes and then they demote, they could potentially get a benefit from that because of the flexibility that's allowed.

**Peter Long:** Section 4, subsection 4 is the original language from demotion, but we took out the part that says you can't be higher than you would have been had you not demoted. That part we took out. Is that your concern?

**Kareen Masters:** So if I promote during my initial probationary period and I go to a Step 7, and then, if I demote back down, even though I might have been a Step 5 in my prior class they can pay me at a Step 7.

**Peter Long:** The appointing authority can. Yes. So it's permissive. So you just want it to be uniform where they can't make more than they would have had they not promoted and demoted?

**Kareen Masters:** Yes. I'm sure the majority of the people would, carry it out in an appropriate manner, but there is the potential to promote for two weeks just to get a 10% increase.

**Peter Long:** I don't disagree. Let's put this as one we need to discuss because that section was under the promotion section, and that's caused a lot of concern over the years where someone has promoted, demoted and they can't be higher than they would have been. It used to catch up fairly quickly when we had MSIs. Now we don't. So we've had people that have gone back down and we've had to re-adjust their payback for three or four, five years and so we thought that's just really hard to track. I'll asterisk it and we can discuss it and come up with something later.

**Shelley Blotter:** Some of the proposed regulations we discussed what the impact would be and felt like there was a small populations that would actually be affected by this, so, again, for the ease of administration, we are balancing that with including a rule that is cumbersome to use.

**Mark Evans:** One of the issues with this is that in the past you've had to go back to figure out what an employee really should have been making several years ago. We've had grievances about that and where the employee unexpectedly had to pay back a lot of money. Maybe what we could do is we could limit it to their most recent position instead of having to go back to whenever they became permanent at that grade because that seems to be where a lot of the confusion is.

**Peter Long:** I think Kareen is right. When it says initial probationary period, I think the intent was their first position in State service when they're in their initial probationary period. They demote and so it didn't think about promotion, but she's right in that you can promote multiple times, and if you've never become permanent, you've never gotten past your initial probationary period. So I think that's where the concern comes in, so we can look at it.

**Kimberley King:** I'd like to work through that language. We have run into some problems with people who have demoted and then promoted, but I think that we can work through the language later. We were concerned about number 3. If the demotion was instituted for disciplinary reasons, the base rate shall be equivalent to decrease of not more than one step from his or her current base rate of pay. We've had a situation where somebody was demoted three grades. We wouldn't want to have our management constrained on what we should be paying them down to just one step. I need to work through some more situations, but it's almost better to get demoted for cause than voluntary with this language.

**Peter Long:** We could leave the original verbiage in there that was the appointing authority may pay the demoted employee at any step in the grade to which the employee was demoted that is not greater than his or her base rate of pay before the demotion. You are fine with the way it was?

**Kimberley King:** Yes, we were fine with that. That gives the agency head the ability to manage their department.

**Peter Long:** Okay. Our only concern on that one was simplification and that possible inconsistency across State service of how much was taken away from an employee.

**Kimberley King:** I can understand that and if we want to talk about different language that might address both concerns that would be great.

**Amy Davey:** I just want to support what Kimberley had to say exactly. My concern also is about just the 1-step decrease. I do understand about the consistency issue. I'm not quite sure how to address it, but I think that is a concern as well. I just don't think that a 1-step decrease being locked in is the right thing.

**Shelley Blotter:** Asked if there were any other comments regarding section 4? She advised that there would be additional conversations about section 4. She asked if there were any additional comments, and there was no response. She proceeded on to Section 5, rate of pay on transfer. No one came forward. She proceeded to Section 6, rate of pay reappointment.

**Kimberley King:** Commented this is similar to the very first one -- retains his or her step. Can we be clear if we're simplifying the language, which step -- last position? I just thought it could be clearer.

**Peter Long:** Agreed.

**Kareen Masters:** Thinks there still needs to be the distinction in whether they are being reappointed to a higher or lower grade, because, again, I think that could end up with some inequities.

**Peter Long:** We can add that back in.

**Shelley Blotter:** Asked if there were any concerns or other comments regarding section 6 or the proposal to add the language related to whether it's a higher or lower grade back in? No other comments. Proceeded to Section 7, rate of pay on reemployment.

**Priscilla Maloney:** I didn't raise my hand when we were going through the list as far as objections go, but we did have a question about subsection 2. We're aware that other State legislatures have some provisions, if there's a fiscal emergency, we get to do X. Could Mr. Long or someone explain how this new exception to the section would work?

**Peter Long:** This section was there before. It's not a new section. It's highlighted because it will be a totally new number within 284, but that section was there before. So the Budget Division or the Nevada System of Higher Education could say there wasn't enough funding, which then allows the employee to decide whether they do or don't want to take that job at a lower pay.

**Priscilla Maloney:** Right. I assume when it's referencing 204, again, we're back to the 2-steps cap. So Section 7, rate of pay reemployment and an exception to the section may be made if the conditions in 284.204 exist or if the money is not available. I just want to try and clarify whether or not it's dovetailing within 204 right now or mirroring that. I'm looking at Subsection 1C in 204.

**Peter Long:** It's referencing that the intent of that is that they don't have to be limited to the base rate of pay if they can get an adjustment through 204.

**Priscilla Maloney:** But, again, the cap would be that adjustment would be the two steps, wouldn't it?

**Peter Long:** No, no. It's not referencing that specifically. It's referencing anything in 204 where say they were a grade 32, step 5 when they left. They would come back at an equivalent salary to that, notwithstanding, that they could still get that adjustment in 204 of a plus 5 for any of the reasons that are in 204.

**Priscilla Maloney:** Okay. We're thinking about our military folks or somebody who's gone for a while and actually leave State service and maybe comes back.

**Peter Long:** That's a different type of reemployment.

**Priscilla Maloney:** Okay. Thank you.

**Shelley Blotter:** Asked if there were any other comments regarding Section 7, rate of pay on reemployment, Section 8, rate of pay, military reemployment, Section 9, rate of pay, minimum step for continuous employment. No comments. Proceeded to Section 10, rate of pay, non-classified/unclassified appointment to classified.

**Peter Long:** An agency brought forth that they wanted us to consider that if an employee left classified service and went to unclassified service and then came back, that the time they were in unclassified service count towards their steps. I think we'll need to get an opinion from our DAG. Statute says that they come back with equivalent compensation and duties. So I don't know that we could add steps for the time that they've been gone, but it's something we would be willing to look at if there was an appetite for that, so I don't know if that means we need to table this one.

**Shelley Blotter:** Advised to do that just in case. She asked if there were any other comments on Section 10. No comments. She advised that before going on to Section 11, she wanted to recap that there's a need to have additional discussion about Section 3, Section 4, and Section 10.

**Mark Evans:** Just to clarify, we will go forward with splitting those out. We'll just leave the language the same. Is that correct? Is that how people understand it?

**Shelley Blotter:** So in other words, if there had been a change in it and it's in one of those that I just mentioned, we'll go with the original language and then have additional conversations about proposed changes, so that we can go ahead with the breaking apart of 284.170 for clarity purposes. Does anyone object to that?

**Peter Long:** I have a Question on Section 6. That's the one where you wanted to address on reappointment higher or lower grade. Do we need to table that or are we going to make the

proposed changes and then address them and discuss them again when they get to the Commission?

**Shelley Blotter:** I think the proposed change in that one is to just clarify that it was the last position.

**Peter Long:** That was part of it, but Kareen also wants to add back in whether if they were reappointed to a higher or lower grade.

**Shelley Blotter:** We'll go ahead and table that one as well. Are there any other comments on those sections before we go ahead? Okay. So now we are at 284.182 and that was one that we all agreed that it was fine as proposed. We already had the discussion about 284.204. Anyone else have comments about 284.204? No comments. Proceeded to 284.206.

**Priscilla Maloney:** It's AFSCME's understanding on this that in February 2010, then-Governor Gibbons suspended special adjustments to pay all the pay codes that are relevant that are under this 206. It's our understanding that that was until further notice and that these pay codes are still frozen. Is that correct?

**Peter Long:** That is correct.

**Priscilla Maloney:** Some of these regs are wordsmithing by our assessment, but here is the first one that has a substantive change. I understand that this regulation is currently frozen and no employees are receiving the adjustment to pay.

In Section 2, 3B of the proposed regulation the employee who is required to use bilingual skills or sign language for persons who are deaf have been compensated at one of those special adjustments to pay rates for performing those duties at least 10% of the time. The increase that's suggested here is to 50 percent. Quite frankly, we need more information. We would even request that officially we have a second workshop on this after we get more information. We have no idea where increasing the percentage from 10% to 50% comes from. We would like to know things, for instance, such as what languages are we talking about, how many State employees throughout the State, north, south and the rural areas, are performing these duties. We'll probably be making a formal request for that information breaking it down by agency what languages we're talking about. We simply need to know the basis for this 50% requirement and I'm sure that there's some information out there. So, we request a second workshop on this, specifically.

**Peter Long:** A second workshop is not a problem. As far as gathering the information on who might be eligible, we could certainly survey agencies. I don't know how responsive or receptive they might be because it's been gone now for two or three years so they may not have a good idea. As far as language goes, we've never limited it to any specific language. If they say a particular language is required, we're not questioning them on that.

**Priscilla Maloney:** A period of time prior to February 2010 when the Executive Order went into place could be reviewed. We'd want to know, in a specific timeframe, was the bulk of State

dollars going to one language over another. That's something that we think is important and relevant to this. Nevada is an incredibly diverse state. That's one of its wonderful strengths. We have many populations that are growing where English is not the first language spoken. We know that this is going to be an increasing cost to the State, but we want to see our employees appropriately compensated for that. We have put a call out to our membership to give us anecdotal statements and/or testimony that could be provided at the next workshop. For instant, anecdotally, we've heard of stories that one particular person who works in one of the mental health facilities down south says she's often pulled from her tasks, right now, even with the Executive Order, she's not compensated and asked to translate on an intake for a mental health client that's coming in that the State is serving and that person can spend anywhere from 3 to 5 hours translating without this. And we recognize that this is permissive.

**Shelley Blotter:** It is no problem bringing these back at a later time. I agree with Peter that I don't believe our records codes show which languages are spoken. So, it would be just a survey of our agencies to determine that.

**Priscilla Maloney:** Well, and from a public policy matter and a budgeting matter, that might be good to know. And the rurals versus the north versus the south where the dollars are going and where the dollars needed for this service. In a happy sense, that's the world we live in, a diverse world.

**Peter Long:** We can survey and ask, but if we're not limiting it to any particular language, what's the benefit of knowing which language -- I mean, we would allow any language to get this adjustment.

**Priscilla Maloney:** There's the overriding concern that there are people who are doing this service sometimes a huge part of their day and are not being compensated for it. If we need to do recruitments where a specific language is really needed in that agency, again, we'd just like some quantified information. If it's not there, you know, then maybe this becomes the part of the step that is the foundation for a study to break it down where that information could be gathered from and what it means in terms of recruitments, hiring, work performance standards, and all of those things. We're hearing a lot is people are being told under the work performance standards language that almost all of them have "and other duties as agency assigns" and that is what's being used for a lot of these people to be pulled off of their regular tasks and then sent to go translate in a different language.

**Larry Hamilton:** Wanted to offer some supportive comments. As we were doing our due diligence with respect to taking a look at this section, many of the questions that the prior speaker asked came up in our conversations as well, so we look forward to working with the groups and with the other colleagues across the state to answer some of these questions. The 50 percent threshold in our preliminary look at other agencies, western states, other cities within the west and then here within the Las Vegas and the Clark County area really did not seem to indicate that 50 percent was a threshold; it was much less. Also some preliminary research that we did, and we'll follow up on that research and provide more at the second workshop, seem to indicate that most bilingual pay policies required some kind of certification or some kind of

exam process, which ours does not. So we look forward to working with everyone on this at the next workshop.

**Amy Davey:** At 50 percent, I guess what I wonder is, would it be feasible to consider that if bilingual skills were required for a position, it became a requirement for the position? Previous to State service, I worked in local government. This was always an issue. We did require certification in a language in order to receive bilingual pay. Additionally, what we found is that employees who were bilingual in a language that they couldn't routinely use felt somewhat left out of the whole bilingual pay issue. I guess what I would wonder, if you say a job requires that you be bilingual if you work at the counter for DMV or you work on the telephone lines for DETR, maybe that's something that we write into the minimum qualifications for the job.

**Peter Long:** We can discuss this at the workshop and see what all agencies think. The 50 percent was a number that we kind of threw out there because what we found when the Governor rescinded these plus fives was that when we started notifying agencies that they had to remove these, there was a fair percentage of employees that were getting this plus five that the agencies didn't even realize were getting it. We didn't require documentation to prove that they were doing it. Ten (10) percent is four hours a week and what they had were a lot of people out there that, as the AFSCME rep said, maybe grabbed to come to the counter and then they may do it for five minutes once a month, but they were getting a plus five. So we were looking at it as, 50 percent seemed reasonable in that it doesn't tie in with the other elements in 204. It's a skill that just like we ask for word processing or spreadsheets, we don't pay an additional five percent for having that. So as you said, if it's a requirement of the job and we announce it that way and they have it, that's what they need to get the job, why pay an additional five percent for having that skill? So that's how we were kind of looking at it, as well. I do like the idea of the certification

**Janet Damschen:** I'd like to echo what Mr. Hamilton said. Beyond that, we have a practical concern that we haven't researched fully, but the vast majority of our people who are being paid this differential right now are using it a small amount of the time. If we lose that group of people, if we take that away, we're afraid that we're not going to be able to use them for that service ever. That they will say, oh, you took away my five percent and 10 percent and now they won't assist us in that way anymore and we're going to lose that service. So we're thinking that 50 percent is too high. You might be able to go with 25, something like that, but we'll look forward to the workshop as well.

**Peter Long:** That's something that we're open to and can survey other jurisdictions and see what an average may be on something like that.

**Hazel Brandon:** I just wanted to echo that we are recruiting and asking for bilingual skills and it is working. I don't see a need to put it in our class specs. When they are applying for the job, they know that they need to speak a different language, whatever it is, and I think that takes care of it.

**Peter Long:** Wouldn't anticipate changing our specs. I think it could fall under selective criteria like we do other classes. To the best of my knowledge when these plus fives were taken away,

there were some concerns, but I don't know of anybody that actually left their job because they lost the five percent.

### **Pertinent Testimony from Personnel Commission Meeting Held Dec. 7, 2012**

**Peter Long**, Deputy Administrator, DHRM: Stated that Section 1 incorporated sections 2 through 9 into NAC 284. Noted he would be explaining changes to sections 2 through 9. He stated Section 3 moved the rate of pay on promotion into its own regulation with no change to verbiage. He stated Section 4 demotion moved into its own regulation with no change to verbiage. He stated Section 6 rate of pay upon reappointment moved into its own regulation with no change in verbiage. He stated for Section 8 and 9, the minimum step for continuous employment and non-classified, unclassified, appointed to classified service moved to its own regulations with no change in verbiage. He stated Section 2 reinstatement; Section 5 transfer and Section 7 reemployment simplified the verbiage currently in 284.170 to make it more understandable to agencies using the regulation as well as effected employees.

**Commissioner Mauger**: Asked if employee groups were involved in the changes. **Peter Long**: Responded yes and added they had held workshops with both agencies and employee groups participating and details were shown in the workshop minutes. He confirmed that they had not presented anything that had not been agreed to by both those groups.

**Peter Long**, Deputy Administrator, DHRM: Stated that he would not discuss Sections 10 through 15. He confirmed that there were no changes except the change of the number to referencing a particular regulation. He confirmed that once it had been approved and codified the particular regulation that it was referencing would be inserted.

**Carrie Hughes**, Personnel Analyst, Department of Administration, DHRM: Stated that Section 16 proposed a permanent amendment to NAC.284.587 clarifying the circumstances when civil leave must be granted per statute and might be granted by an appointing authority. She explained that the proposed language clarified that civil leave must be granted to an emergency communications technician as outlined in NRS 281.149. She noted that the remainder of the proposed language clarified that an appointing authority might grant civil leave as necessary to meet the needs of a state of emergency or disaster as declared by the governor or president. She stated that in Section 17 the DHRM was proposing the repeal of NAC 284.588 due to the fact that NRS 284.358 mirrored the regulation making it unnecessary.

**Chairperson Fox**: Took the opportunity to explain that the reason Section X. of the agenda was before the Commission was because Governor Sandoval when he took office had asked all state departments to do a review of their regulations to streamline them, simplify language, make it more user- friendly and remove redundancies. She recognized the DHRM for the substantial work done on this process. She noted that there was public comment from the south.

**Ron Cuzze**, President, Nevada State Law Enforcement Officers Association: Stated that he was also a Lieutenant Colonel in the civil air patrol and he had noted that in the civil leave sections



that the civil air patrol had been omitted. He related several instances citing the importance of this group.

**Carrie Hughes**, Personnel Analyst, Department of Administration, DHRM: Stated that the proposal to remove NAC 284.588 was based on the premise that the same provisions in the regulation were covered in the statute. In NRS 284.358 the statute came after the regulation and the regulation originally had come following 9/11 to provide relief for state employees who were being called up and staying out for substantial periods of time. **Commissioner Sanchez**: Noted that her comments did not address the concerns of Mr. Cuzze. **Carrie Hughes**: Explained that they were proposed to remove the regulation and use as support for that type of civil leave with the statute as the authority. She said the statute would require changes at the legislative level. **Commissioner Brust**: Asked if they were being excluded or if there was a lack of inclusion via the statute. **Carrie Hughes**: Stated yes, that would be correct if they removed the regulation. **Ron Cuzze**: Asked why the DHRM was removing it.

**Shelley Blotter**, Deputy Administrator, DHRM: Referred to the two sections under discussion and stated that one would provide civil leave and it was merely a clarification of the current language so there was no intention of omitting the civil air patrol. She stated it was not included because that was not the current regulation. She referred to the second section and stated it was that the regulation preceded the statute because of a catastrophic event and she said at the time there was concern that they had the authority to adopt that regulation but due to the circumstances it was adopted as an emergency regulation. She added that subsequently the legislature wanted to make certain that this was a benefit going forward so the regulation ended up duplicating the statute. She added that it was not to say that in the future they could not consider the civil air patrol it was just that they had not gone through that workshop process yet to have the discussion to include it.

**Chairperson Fox**: Stated that she was hesitant to go further than what the NRS stated. **Commissioner Brust**: Indicated that he would like to see a workshop to pursue the issue of the civil air patrol. **Commissioner Mauger**: Noted this had been on the books since 2001, with 11 years as an inclusion. He asked why other than statute, if it had been good enough since then, then why was it not good enough now. **Shelley Blotter**: Responded that it was duplicate language and confirmed that they had not taken anything away and they still would get the benefit provided in statute. **Commissioner Mauger**: Asked Ron Cuzze if he was comfortable with their comments. **Ron Cuzze**: Responded no, he said he did not believe that the NRS was prohibitive but it did not exclude. He stated he would yield to the Attorney General's Office. He said the NRS said that there were certain entities that would respond from a man-made to a natural disaster and the NAC administers how that would be done. He stated that all they were asking was that the civil air patrol be included. **Commissioner Mauger**: Asked if he wanted it included under the NAC. **Ron Cuzze**: Responded yes. **Chairperson Fox**: Asked the Deputy Attorney General for clarification.

**Carrie Parker**, Deputy Attorney General: Stated she had pulled up NRS 284.358 subsection 1 which stated: "An officer or employee in the public service who performs active military service in the armed forces of the United States or any other category of persons designated by the president of the United States or the governor of this state including without limitation the

Commission for the United States Public Health Service in time of war or emergency is entitled to civil leave with reduced pay with a period of such service.” She noted that the question would be whether the organization that Mr. Cuzze had referred to would qualify as one of those designated categories or persons. **Ron Cuzze:** Responded yes, and they were identified as the United States Air Force Auxiliary. He stated they were also covered in other sections of the NRS and would fall under the control of the governor and were funded by the state of Nevada for training and fuel and noted the differences with the Air and Army National Guard. **Commissioner Sanchez:** Asked if he was satisfied after hearing the Deputy Attorney General reading of the statute that the civil air patrol was covered. **Ron Cuzze:** Responded yes, by the federal statute. **Commissioner Sanchez:** Asked if he had no objection to the removal of NAC 284.588. **Ron Cuzze:** Confirmed he had no objection but wanted it to be included in the other.

**Chairperson Fox:** Noted that there were no further questions.

**MOTION:** Moved to approve adoption or repeal of proposed regulation changes to the Nevada Administrative Code, Chapter 284, LCB File No. R133-12, sections 1 through 17  
**BY:** Commissioner Mauger  
**SECOND:** Commissioner Read  
**VOTE:** The vote was unanimous in favor of the motion