BOB MILLER
Governor

STATE OF NEVADA

SHARON P. MURPHY
Director

DEPARTMENT OF PERSONNEL
209 E. Musser Street
Carson City, Nevada 89701-4204
(702) 687-4050

MEMO PERD #06/98
February 5, 1998

TO: All State Agencies
ATTN: Designee for Personnel Rules and Class Plan Distribution
FROM: Sharon P. Murphy, Director
Department of Personnel

SUBJECT: REGULATION CHANGES

The regulations included with this memorandum are being proposed for permanent adoption at the March 20, 1998, Personnel Commission meeting. This meeting will be held at 9:30 a.m. at the City of North Las Vegas, Council Chambers, 2200 Civic Center Drive, North Las Vegas, Nevada.

In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 2:00 p.m. on Wednesday, February 25, 1998, at the Nevada State Library, Conference Room A, 100 Stewart Street, Carson City, Nevada. An informational note precedes each regulation which explains the nature and purpose of the proposed change to the regulation.

Please see that all department heads, division heads and personnel officers, as appropriate, are advised of these proposed changes. Also, please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* and *Notice of Hearing* along with the *text of the proposed regulations*, or otherwise notify your employees.

SPM:dsb

Enclosures

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

Workshop Notice: The Department of Personnel, 209 E. Musser Street, Carson City, Nevada, telephone number (702) 687-4050, is proposing the adoption, amendment and repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 2:00 p.m. on Wednesday, February 25, 1998, at the Nevada State Library, Conference Room A, 100 Stewart Street, Carson City, Nevada. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

ACTION	NAC REGULATION
Leave use options when receiving benefits for work related injury.	NEW
Appeal of allocation of position or change in classification.	284.152
Granting or withholding of increase in salary based on merit.	284.194
Compensation for differentials in shifts.	284.210
Longevity pay: Applicable formulas.	284.278
Longevity pay: Computing payment under particular circumstances.	284.282
Preparation of reports.	284.470
Workweeks and workdays; periods for rest and meals.	284.524
Time sheets.	284.5255
Annual Leave: Long-term employees.	284.538
Layoffs: Procedure.	284.614
Causes for disciplinary action.	284.650
Eligibility for increase in salary based upon merit.	284.174 REPEAL
Use of compensatory time to supplement benefits for temporary total disability.	284.251 REPEAL

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 E. Musser Street, Room 300, Carson City, Nevada, telephone number (702) 687-4050, or 555 E. Washington Avenue, Suite 1200, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

Hearing Notice: The Personnel Commission will hold a public hearing at 9:30 a.m. on March 20, 1998, at the City of North Las Vegas, Council Chambers, 2200 Civic Center Drive, North Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

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

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Phil Hauck, Department of Personnel, 209 E. Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before March 6, 1997.**

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

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

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

CARSON CITY

Blasdel Building, 209 E. Musser Street
Carson City Court House, 198 N. Carson Street
Capitol Press Corps, Basement, Capitol Building
Nevada State Library, 100 Stewart Street
Capitol Building

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: ***We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 E. Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Linda Meyers at 687-3718, no later than five working days prior to the meeting.***

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2/4/98

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

Explanation of Change: This amendment proposed by the Department of Personnel is intended to consolidate into one section all of the leave options when an employee is on temporary total disability as a result of a work injury. Section 284.251 is proposed for repeal.

The Family and Medical Leave Act, 29.U.S.C. 2611, referenced in this section provides for up to 12 weeks of leave in a year for a serious health condition. The Department of Labor is responsible for enforcing the provisions of this Act.

1. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS may:
   (a) Use his accrued compensatory time;
   (b) Elect to use accrued sick leave as provided in subsection 1 or 3 of NRS 281.390; or
   (c) If he is on family and medical leave for a serious health condition which prevents him from performing one or more of the essential functions of his position, elect to use annual leave;

   to receive payment for all or part of the difference between his normal pay and the benefits received.
2. Pursuant to NAC 284.539, an employee who makes the election provided in NRS 281.390 must exhaust his sick leave before he is eligible to use annual leave unless he is on family and medical leave for a serious health condition which prevents him from performing one or more of the essential functions of his position.
3. An employee who exhausts all of his annual, sick or compensatory leave may be approved for catastrophic leave as provided in NAC 284.576 to supplement all or part of the difference between his benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and his normal pay.

Section 2 NAC 284.152 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel is intended to provide some latitude for the director in responding to classification appeals.

284.152 Appeal of allocation of position or change in classification.

1. An employee affected by the allocation of a position to a grade or class or by a change in classification as a result of a study regarding classifications, or the agency where such actions have occurred, may, within 20 working days after the date of receipt of written notice of the action, file a written appeal of the action with the director. The appeal must:
   (a) Address the points outlined in the department of personnel's recommendation regarding the proper classification for the position in question;

and

(b) Indicate the points with which the appellant disagrees and express the reasons why he disagrees.

2. **Except as provided in subsection 3,** the director will issue a decision on the appeal within 20 working days after he receives the appeal unless:

   (a) He is prohibited from doing so because of the number of appeals resulting from a study regarding classifications[.];

   (b) There is an agreement with the appellant to extend the time frame.

3. **The director may delegate the appeal to a designated representative for a determination and response within the 20 working days if he is unavailable to respond or if he feels there is a conflict of interest.**

[3]**4.** The appellant or the agency affected by the decision may appeal it to the personnel commission within 30 days after receipt of written notice of the decision from the director.

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

Explanation of Change: This amendment proposed by the Department of Personnel consolidates the provisions of NAC 284.174 with this section. NAC 284.174 is proposed for repeal. The reference to the "overall" performance is intended to conform with the change in Section 7, defining "rating."

284.194 Granting or withholding of increase in salary based on merit.

1. An employee [who is eligible] **whose last performance rating 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 date of record and each year thereafter of employment equivalent to full-time service until he reaches the top of the grade.

2. **An employee with a substandard performance rating is not eligible for an increase in his salary based upon merit.**

[2]3. An employee who has failed to receive an increase in salary based on merit because of a performance report which rates his **overall** performance as substandard is only entitled to receive that increase on the date designated and recorded on a subsequent performance report as the date on which his **overall** performance improved to standard or better. If a subsequent performance report is not filed with the director within 30 days after 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 performance report 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]4. If an increase in salary based on merit is withheld as provided in subsection 2, the employee's date of record must not be affected.

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

Sec 4. NAC 284.210 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel is intended to simplify the administration of this regulation by permitting any period of work of at least 8 hours to qualify for shift differential if 4 hours of the work period fall between 6 p.m. and 7 a.m. There has been a great deal of confusion over the meaning of the word scheduled as a requirement for shift differential.

284.210 Compensation for differentials in shifts.

1. Except as otherwise provided in this subsection, compensation equivalent to an adjustment of one grade must be authorized for an employee for all hours worked within a work shift if the employee is assigned to a qualifying shift. An excluded classified employee who is assigned to a qualifying shift for any portion of a workday must receive such compensation for all of his regularly scheduled hours of employment on that workday.
2. One shift qualifies an employee to receive the compensation.
3. The compensation applies during the time when an employee is on sick and annual leave, holidays and other leave with pay if the employee is still assigned to that shift when the leave is taken.
4. Any hours exceeding the qualifying 8-hour shift are eligible for overtime at the differential rate of pay for that shift if they are worked by an employee other than an excluded classified employee, in conjunction with, immediately before or following the shift.
5. A qualifying shift, including the times at which the shift started and ended, must be clearly designated on the employee's time sheet and approved by the employee's supervisor.
6. As used in this section, "qualifying shift" means a [scheduled] period of work of at least 8 hours, of which 4 hours must fall within the hours from 6 p.m. to 7 a.m.

Section 5. NAC 284.278 is hereby amended to read as follows:

Explanation of Change: This section is proposed for amendment by the Department of Personnel. In subsection 1, we have removed the full-time equivalency requirement for a part-time employee to become eligible for longevity pay. With this amendment, a part-time employee will become eligible for a pro-rated longevity payment after 8 years of continuous service based upon the number of hours he works in the 6 month qualifying period. Continuous service is defined in NAC 284.0525 as service which is not broken by a separation except for those separations listed in NAC 284.598.

We have also proposed amendments to clarify the formulas for computing longevity pay when employees regularly work a part-time or full-time work schedule or work more than 40 hours in a week.

284.278 Longevity pay: [Part-time employees:] Applicable formulas.

1. [Part-time employees must work the equivalent of 8 full-time continuous years to be eligible for longevity pay.

2. [Except as otherwise provided in subsection [4] **3.** an eligible part-time employee or an eligible full-time employee who works less than full time for a portion of the 6-month qualifying period, is entitled to receive longevity pay based on the following formula:

$$\frac{\text{The number of [full-time equivalent] hours worked}}{\text{1044 hours}} \times \text{longevity increment} = \text{longevity payment for 6 months}$$

[3]2. Except as otherwise provided in subsection [4 a full-time] **3. an** employee whose regularly scheduled work shift is more than 40 hours per week or 80 hours biweekly is entitled to receive longevity pay based on the following formula:

$$\frac{\text{The number of hours worked during 6-month qualifying period}}{\text{Total scheduled work hours during 6-month qualifying period [for a full-time employee]}} \times \text{longevity increment} = \text{longevity payment for 6 months}$$

[4]3. Prorated longevity pay for an **eligible part-time or full-time** excluded classified employee or excluded unclassified employee must be calculated using the following formula:

$$\frac{\text{The number of days worked during 6-month qualifying period}}{\text{[Total scheduled work days during 6-month qualifying period for a full-time employee] 130.5 days}} \times \text{longevity increment} = \text{longevity payment for 6 months}$$

For the purposes of this subsection, a work day is 8 hours.

4. **For the purposes of this section, "hours" does not include overtime hours unless an employee is working more than 40 hours per week and the overtime hours are part of his regularly scheduled hours and subject to retirement contributions.**

Section 6. NAC 284.282 is hereby amended to read as follows:

Explanation of Change: This section is proposed by the Department of Personnel to address the adjustment of hours for the purpose of computing the longevity payment for part-time employees when they are on leave without pay or catastrophic leave. The longevity payment for full-time employees is adjusted for leave without pay or catastrophic leave in excess of 240 hours in a calendar year. This amendment will provide for a proportionate adjustment of hours for part-time employees based on the 240 hour limit for full-time employees.

284.282 Longevity pay: [Eligibility under] Computing payment under particular circumstances.

1. Except as otherwise provided in NAC 284.580, an employee who is on leave without pay **and/**or catastrophic leave for the entire 6-month period of qualification is not entitled to pay for longevity for that period. **For the purpose**

of computing the longevity payment in the 6-month period, leave without pay **and**/or catastrophic leave **combined,** for 240 hours or less in a calendar year may be counted as time worked for an employee other than an excluded classified employee or excluded unclassified employee. Leave without pay [or] **and** catastrophic leave **combined,** for 30 working days or less in a calendar year may be counted as time worked for an excluded classified employee or excluded unclassified employee.

2. Except as otherwise provided in NAC 284.580, the formulas provided in NAC 284.278 must be used in calculating the payment for longevity for:
   (a) Employees, other than excluded classified employees and excluded unclassified employees, who take leave without pay [or] **and** catastrophic leave**, combined,** in excess of 240 hours in any 1 calendar year; and
   (b) Excluded classified employees and excluded unclassified employees, who take leave without pay [or] **and** catastrophic leave **combined,** in excess of 30 working days in any 1 calendar year.
3. For the purposes of subsections 1 and 2, an employee whose regular work schedule is more than 80 hours biweekly must be allotted additional leave without pay **and catastrophic leave** in proportion to the number of hours his regular work schedule exceeds 80 hours biweekly. For the purposes of this subsection, a fireman who is assigned to a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year.
4. **For the purposes of subsections 1 and 2, an employee whose regular work schedule is less than 40 hours weekly must have his leave without pay and catastrophic leave adjusted on a proportionate basis for the number of hours his regular work schedule is less than 40 hours weekly.**

[4]5. An employee who retires and applies for retirement pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.

[5]6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for pay for the longevity he would have earned if he had not been laid off. The employee must be treated as if he had been on leave without pay pursuant to subsections 1 and 2.

[6]7. A person with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for pay for the longevity he would have earned if he had not been separated from state service. The employee must be treated as if he had been on leave without pay pursuant to subsections 1 and 2.

[7]8. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and makes the election provided in:
   (a) Subsection 1 or 3 of NRS 281.390, is entitled to accrue service credit for longevity during the period he is receiving benefits and is being paid an amount of sick leave equal to the difference between his normal salary and the benefits received.
   (b) Subsection 5 of NRS 281.390, must be placed on leave of absence without pay, unless the employee is on family and medical leave because

a serious health condition prevents him from performing the essential functions of his position. Such an employee may, while he is on such leave, elect to use his accrued annual leave in lieu of being placed on leave of absence without pay.

[8]9. An employee who does not have enough sick leave to make up the difference between his normal salary and benefits for temporary total disability must be placed on leave of absence without pay for the period he is receiving such benefits and the balance of time not covered by sick leave or other paid leave. Such an employee accrues service credit only for the time he is covered by sick leave or other paid leave. The employee ceases to be on leave of absence without pay when he has exhausted all of his sick leave and is not approved for other leave.

[9]10. Service in a seasonal position must be credited towards payments for longevity if the employee is employed on December 31 and June 30 and if the requirements for longevity service have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed without a 12-month break in service, the employee is entitled to receive a prorated payment for longevity based on the service during the last longevity period.

[10]11. If a person is on leave of absence without pay for military service pursuant to NRS 284.365 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted when determining the rate for pay for longevity. The person is eligible for payment for longevity for the time he is in paid status in accordance with the provisions of subsections 1 and 2.

[11]12. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for longevity purposes but not for any retroactive payment.

Section 7. NAC 284.470 is hereby amended to read as follows:

Explanation of Change: This amendment by the Department of Personnel is intended to clarify the meaning of the word "rating" as used in this section and the statute. Rating is intended to refer to the overall rating when the principal assignments, related factors and supervisory performance are considered in their entirety.

284.470 <u>Preparation of reports.</u>

1. A person shall not complete a report of performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.
2. A report of performance must be prepared on the form prescribed by the department of personnel.
3. When a report of performance is given which rates the performance of an employee as substandard, it must contain a written notice that such reports affect both adjustments in salary based on merit and the employee's eligibility for longevity pay. More frequent reports may be made in the supervisor's discretion.

4. The preparation of each report of performance must include a discussion between the employee and his immediate supervisor. The employee shall complete and sign the appropriate section on the report of performance within 10 working days after the discussion takes place and return the report to his supervisor for forwarding to the appointing authority. If the employee disagrees with the report of performance and requests a review, he must respond and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond within 10 working days after receiving the request.
5. A copy of each report of performance must be filed with the department of personnel.
6. **"Rating" as used in this section and subsection 4 of NRS 284.340 means the overall rating of performance for the principal assignments, related factors and supervisory responsibility included in the evaluation.**

Section 8. NAC 284.524 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel is intended to provide some latitude to an appointing authority when scheduling an employee's lunch period.

284.524 Workweeks and workdays; periods for rest and meals.

1. The work week for state employees is 40 hours, except that work weeks of a different number of hours may be established in order to meet the needs of different state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of [two, 4-hour work periods separated by] a 1/2- to 1-hour meal period. **Insofar as practicable, the meal period must occur in the middle of the work shift.** A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.
2. Except as otherwise provided in subsections 3 and 4, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:
   (a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 5 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.
   (b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.
3. The requirement to relieve an employee for a 1/2 - to 1-hour meal period does not apply to an employee who receives a paid meal period.
4. The requirement for a rest period does not apply to an employee of:
   (a) A correctional institution who:
      (1) Works directly with the inmates at the institution; and
      (2) Works a straight 8-hour work shift.
   (b) The mental hygiene and mental retardation division of the department of human resources who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and
(2) Works a straight 8-hour work shift.

Section 9. NAC 284.5255 is hereby amended to read as follows:

Explanation of Change: This regulation proposed by the Department of Personnel is intended to clarify the responsibility of the agency payroll representative when reviewing and certifying the accuracy of time sheet entries.

284.5255 Time sheets.

1. Except as otherwise provided in subsection 2, an employee shall provide an accurate accounting of the hours worked and leave used during a pay period on the appropriate form provided by his employer, including the specific times at which his work shifts started and ended. Entries must be made to account for all hours in the pay period, as prescribed by his employer. The employee shall submit the form in a timely manner to his supervisor or the designated representative of the supervisor.
2. An excluded classified employee or excluded unclassified employee shall provide on the appropriate form an accurate accounting of leave used pursuant to NAC 284.5895.
3. An employee who falsifies his time sheet or who causes or attempts to cause another employee to falsify a time sheet may be subject to disciplinary action pursuant to NAC 284.650.
4. An employee's supervisor is responsible for reviewing the time sheet and verifying the accuracy of all hours worked and leave used by the employee. **The supervisor or payroll representative may make changes on the time sheet in accordance with payroll center policy to correct time sheet errors.** [If an entry on the time sheet is contested by the employee's supervisor] **If an adjustment to hours worked, premium pay or type of leave used is made by the employee's supervisor or payroll representative, the employee must be notified of the change. If the employee contests the change in the time sheet entry,** the employee is entitled only to his base pay for the workweek in question. The contested entry must be resolved as soon as practicable and any adjustment must be made during the next pay period following the resolution of the contested entry.
5. A supervisor who is negligent in reviewing and certifying the accuracy of an employee's time sheet may be subject to disciplinary action pursuant to NAC 284.650.

Section 10. NAC 284.538 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel is intended to clarify that an increased rate of annual leave accrual is based on the definition of "continuous service." The full-time equivalency requirement will no longer apply as a condition for determining the accrual rate for annual leave.

284.538 Annual leave: Long-term employees[; delay of increase for excessive leave without pay].

1. An employee who has completed 10 years or more but less than 15 years of continuous full-time **or part-time** state service is entitled to **accrue up to a maximum of** 1-1/2 days of annual leave for each calendar month of **full-time** service. If an employee has not been in continuous public service, the period before the interruption will not be counted except as provided in NAC 284.5405.
2. An employee who has completed 15 years or more of [total] **continuous** full-time **or part-time** state service is entitled to **accrue up to a maximum of** 1-3/4 days of annual leave for each calendar month of **full-time** service. If an employee has not been in continuous public service, the period before the interruption will not be counted except as provided in NAC 284.5405.

[3. Except for an employee who is on a leave of absence pursuant to NRS 281-390 or NRS 284.365 or NAC 284.580, the date an employee becomes eligible for an increased rate of annual leave must be delayed 8 hours for each day of leave without pay in excess of 240 hours or, in the case of an excluded classified employee or excluded unclassified employee, 30 working days in any 1 calendar year. For the purpose of this subsection, a day of leave is 8 hours, except for an employee who regularly works more than 80 hours in a biweekly period. For such an employee, a day of leave must be determined by dividing his regularly scheduled hours in a year by 2088 and multiplying the quotient by 8.]

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

Explanation of Change: This amendment proposed by the Department of Personnel is intended to conform to the provisions of NAC 284.182 which treats catastrophic leave the same as leave without pay.

284.614 Layoffs: Procedure.

1. Except as otherwise provided in NAC 284.438, if it becomes necessary for a classified employee to be laid off because of 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 of 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 performance report as the date on which his performance improved to standard or better. If the subsequent performance report is not filed within 30 days after the date required by subsection 4 of NRS 284.340, the employee's performance shall be deemed standard effective on the date the performance report 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, authorized leave without pay **and catastrophic leave, combined,** for more than 240 hours or, in the case of an excluded classified employee, 30 working days, in a year, calculated pursuant to subsection 7 of NAC 284.182, is not counted.

(e) When an employee was separated from service with the 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.

Section 12. NAC 284.650 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel is intended to address circumstances when an employee does not have the required license required to perform a job. This is a result of the enactment of S.B. 356 which authorizes the suspension of licenses for failure of a person to make child support payments.

284.650 Causes for disciplinary action.

Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violate a provision of NAC 284.653 or NAC 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.]
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty and performing a function that does not involve the operation of a motor vehicle.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. The suspension, revocation or cancellation of **a professional and occupational license, certificate, permit** [the] **or** driver's license [of an employee] if the possession of [a valid driver's license is required to perform an essential function of his job] **the license, certificate or permit is a requirement of the job as stated in the work performance standards, agency's essential functions form, class specification, or other documentation at the time of appointment or as a result of federal or state legislation.**
20. Violation of any safety rule adopted or enforced by the employee's appointing authority.
21. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized

by his appointing authority. As used in this subsection, "workplace" means any building, office or location specifically intended to serve as a place where work is performed by an employee during the course of a workday, including irregular shifts. The term does not include parking lots, garages or vehicle depots, unless those areas constitute an employee's usual and customary work site, or locations that serve as both living quarters and work sites, except when the living quarters are also used to care for children pursuant to a state program or as otherwise authorized by the state.

Section 13 NAC 284.174 is hereby repealed.

Explanation of Change: This section has been included in NAC 284.194, section 3. As such, it is proposed that this section be repealed.

[284.174 **Eligibility for increase in salary based upon merit.**

1. An employee whose last performance rating was standard or better and who has not attained the top step of his grade must receive an increase in his salary based upon merit of one step on his date of record and each year thereafter of employment equivalent to full-time service.
2. An employee with a substandard performance rating is not eligible for an increase in his salary based upon merit.]

Section 14. NAC 284.251 is hereby repealed.

Explanation of Change: This section has been included in section 1. As such, it is proposed that this section be repealed.

[284.251 **Use of compensatory time to supplement benefits for temporary total disability.**

An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS may use his accrued compensatory time to receive payment for the difference between his normal pay and the benefits received.]

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