

SENATE BILL NO. 331—SENATOR AMODEI

MARCH 17, 2003

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to employment practices governing state personnel. (BDR 23-983)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to state personnel; authorizing the Employee-Management Committee to issue subpoenas for the attendance of witnesses and the production of books and papers; providing certain rights for employees that are the subject of or witnesses in internal administrative investigations; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 284 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2. 1.** *In carrying out the provisions of NRS 284.073,*
4 *the Employee-Management Committee may issue subpoenas to*
5 *compel the attendance and testimony of a person that the*
6 *Committee finds, based upon its information and belief, has direct*
7 *personal knowledge of the issues presented in the grievance, and*
8 *to compel the production of books, papers and other items that are*
9 *relevant to a matter being investigated or considered by the*
10 *Committee.*
11 2. *If a person named in a subpoena fails or refuses to attend*
12 *or testify before the Committee, to answer any questions*
13 *propounded by the Committee or to produce the books, papers or*
14 *other items required by the subpoena, the Chairman of the*
15 *Committee may petition the district court to enter an order*



1 *compelling the person to attend and testify before the Committee,*
2 *to answer the questions propounded by the Committee or to*
3 *produce the books, papers or other items required by the*
4 *subpoena. The petition filed by the Chairman must set forth that:*

5 (a) *Due notice has been given to the person named in the*
6 *subpoena of the time and place for his attendance and testimony*
7 *before the Committee or for the production of the books, papers or*
8 *other items required by the subpoena;*

9 (b) *The person has been subpoenaed by the Committee*
10 *pursuant to this section; and*

11 (c) *The person has failed or refused to attend or testify before*
12 *the Committee, to answer certain questions propounded by the*
13 *Committee or to produce the books, papers or other items required*
14 *by the subpoena.*

15 3. *Upon such a petition, the court shall enter an order*
16 *directing the person named in the subpoena to:*

17 (a) *Appear before the court at the place and time designated in*
18 *the order. The time designated by the court must be not later than*
19 *10 days after the date of the order.*

20 (b) *Show cause why the person has failed or refused to attend*
21 *or testify before the Committee, to answer the questions*
22 *propounded by the Committee or to produce the books, papers or*
23 *other items required by the subpoena.*

24 *A certified copy of the order must be served upon the person*
25 *named in the subpoena.*

26 4. *If it appears to the court that the subpoena was regularly*
27 *issued by the Committee and properly served, the court shall enter*
28 *an order directing the person named in the subpoena to appear*
29 *before the Committee at the place and time designated in the order*
30 *and to testify before the Committee, to answer the questions*
31 *propounded by the Committee or to produce the books, papers or*
32 *other items required by the subpoena. Failure to obey the order*
33 *constitutes contempt of court.*

34 **Sec. 3. 1.** *A subpoena issued by the Employee-Management*
35 *Committee extends to all parts of this state and must be served in*
36 *accordance with the provisions of N.R.C.P. 4(c). The Committee*
37 *may not require a person named in a subpoena to attend at a place*
38 *outside the county in which the person resides unless:*

39 (a) *The location of the place is less than 100 miles from the*
40 *person's primary residence; or*

41 (b) *A party, by affidavit, shows that the testimony of the person*
42 *is material and necessary to the proceedings and the Committee*
43 *endorses on the subpoena an order requiring the person to attend*
44 *at the place named in the subpoena, regardless of its location in*
45 *this state.*



1 2. A person who appears before the Committee pursuant to a
2 subpoena is entitled to receive fees and mileage in the same
3 amounts and under the same circumstances as prescribed by law
4 for a witness in a civil action in the district court, unless the
5 person is a party to the proceeding or an officer or employee of
6 this state or any of its political subdivisions.

7 3. If a person who is entitled to receive fees and mileage
8 pursuant to subsection 2 must appear at a hearing before the
9 Committee at a place located so far from his primary residence
10 that it is not reasonable for the person to return to that residence
11 from day to day, the person is entitled, in addition to fees and
12 mileage, to receive the per diem compensation for subsistence and
13 transportation authorized by NRS 281.160 for each day of actual
14 attendance at such a hearing and for each day necessarily
15 occupied in traveling to and from such a hearing.

16 4. Except as otherwise provided in subsection 5, a party who
17 requests that the Committee issue a subpoena to a person shall pay
18 to the Committee the amount of any compensation for subsistence
19 and transportation that the person is entitled to receive from the
20 Committee pursuant to subsection 3.

21 5. As part of an award of costs to the party who prevails in a
22 proceeding, the Committee may require the party who did not
23 prevail in the proceeding to pay to the Committee the amount of
24 any compensation for subsistence and transportation that the
25 prevailing party would have otherwise been required to pay to the
26 Committee pursuant to subsection 4.

27 **Sec. 4. 1.** An employee who is the subject of an internal
28 administrative investigation that could lead to disciplinary action
29 against him pursuant to NRS 284.385 must be provided notice in
30 writing of the allegations against him.

31 2. Upon receipt of notice pursuant to subsection 1 the
32 employee must be:

33 (a) Afforded the right to have a lawyer or other representative
34 of his choosing present with him at any hearing held pursuant to
35 NRS 284.390 and at any time that he is questioned regarding such
36 charges; and

37 (b) Given not fewer than 2 business days to obtain
38 representation, unless he waives his right to be represented.

39 **Sec. 5.** This act becomes effective on July 1, 2003.

