

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 Chairman of the Employee-Management Committee to issue subpoenas in certain circumstances for the attendance of witnesses and the production of books and papers; providing certain rights for employees that are the subject of an internal administrative investigation; 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 subsection 5 of*
4 *NRS 284.073, the Chairman of the Employee-Management*
5 *Committee may issue subpoenas to compel the attendance and*
6 *testimony of a person that the Committee finds, based upon its*
7 *information and belief, has direct personal knowledge of the*
8 *issues presented in the grievance, and to compel the production of*
9 *books, papers and other items that are relevant to a matter being*
10 *investigated or considered by the 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 Chairman of the*
10 *Committee 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 Chairman of the Committee and properly served, the*
28 *court shall enter an order directing the person named in the*
29 *subpoena to appear before the Committee at the place and time*
30 *designated in the order and to testify before the Committee, to*
31 *answer the questions propounded by the Committee or to produce*
32 *the books, papers or other items required by the subpoena. Failure*
33 *to obey the order constitutes contempt of court.*

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

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

42 (b) *A party, by affidavit, shows that the testimony of the person*
43 *is material and necessary to the proceedings and the Chairman*
44 *endorses on the subpoena an order requiring the person to attend*



1 *at the place named in the subpoena, regardless of its location in*
2 *this state.*

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

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

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

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

29 **Sec. 4.** *An employee who is the subject of an internal*
30 *administrative investigation that could lead to disciplinary action*
31 *against him pursuant to NRS 284.385 must be:*

32 1. *Provided notice in writing of the allegations against him*
33 *before he is questioned regarding the allegations; and*

34 2. *Afforded the right to have a lawyer or other representative*
35 *of his choosing present with him at any time that he is questioned*
36 *regarding those allegations. The employee must be given not less*
37 *than 2 business days to obtain such representation, unless he*
38 *waives his right to be represented.*

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

