

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 10, 2011
Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB11-1117 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, line 9, after "SUBPOENA" insert "OR THE
2 ISSUING AGENCY".

3 Page 2, line 16, strike "SERVED," and substitute "SERVED PURSUANT TO
4 RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE,".

5 Page 2, line 21, strike "SERVED BY REGULAR MAIL" and substitute
6 "SERVED, PURSUANT TO RULE 5 OF THE COLORADO RULES OF CIVIL
7 PROCEDURE,".

8 Page 3, strike lines 3 through 18 and substitute:

9 (c) AT A SHOW CAUSE HEARING ORDERED BY THE DISTRICT COURT
10 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE COURT SHALL
11 REVIEW THE ADMINISTRATIVE SUBPOENA AND ANY EVIDENCE PRESENTED
12 BY THE PARTIES TO DETERMINE COMPLIANCE WITH THE COLORADO RULES
13 OF CIVIL PROCEDURE. THE SUBPOENAED WITNESS OR PARTY SHALL BEAR
14 THE BURDEN OF SHOWING GOOD CAUSE AS TO WHY HE OR SHE SHOULD NOT
15 BE ORDERED TO COMPLY WITH THE ADMINISTRATIVE SUBPOENA.

16 (d) IF THE COURT DETERMINES THAT THE SUBPOENAED WITNESS OR
17 PARTY IS REQUIRED TO COMPLY WITH THE ADMINISTRATIVE SUBPOENA:

18 (I) THE DISTRICT COURT SHALL ORDER COMPLIANCE FORTHWITH
19 AND MAY IMPOSE REMEDIAL AND PUNITIVE FINES, INCLUDING ATTORNEYS'
20 FEES AND COSTS, FOR THE WITNESS'S OR PARTY'S FAILURE TO COMPLY

1 WITH THE ADMINISTRATIVE SUBPOENA; AND
2 (II) THE ADMINISTRATIVE LAW JUDGE SHALL SCHEDULE A HEARING
3 ON THE COMPLAINT TO OCCUR ON A DAY AFTER THE OCCURRENCE OF THE
4 REQUIRED DEPOSITION AND SUCH OTHER DISCOVERY AS MAY BE
5 WARRANTED DUE TO SUCH DEPOSITION.
6 (e) IF THE SUBPOENAED WITNESS OR PARTY FAILS TO APPEAR AT
7 THE SHOW CAUSE HEARING, THE DISTRICT COURT MAY ISSUE A BENCH
8 WARRANT FOR THE ARREST OF THE SUBPOENAED WITNESS OR PARTY AND
9 MAY IMPOSE OTHER SANCTIONS PURSUANT TO THE COLORADO RULES OF
10 CIVIL PROCEDURE."

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