

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
4/14/26

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LLS NO. 26-0996.01 Michael Dohr x4347

COMMITTEE BILL

Joint Technology Committee

BILL TOPIC: Joint Tech Cmt Info Gathering Authority

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF THE JOINT TECHNOLOGY COMMITTEE TO**
102 **GATHER INFORMATION RELATED TO ITS DUTIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Technology Committee. Currently, the joint technology committee (committee) oversees several state agencies in certain capacities related to information technology. For the purposes of implementing and carrying out the powers and duties assigned to the committee, the bill gives the committee the power to subpoena witnesses, take testimony under oath, and assemble records and documents, by

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

subpoena duces tecum or otherwise, with the same power and authority as courts of record, and the committee may apply to courts to enforce these powers.

The bill also authorizes the committee to have access upon request to all books, accounts, reports, vouchers, or other records or information of a department or agency that the committee oversees, including records or information required to be kept confidential or exempt from public disclosure upon subpoena, search warrant, discovery proceedings, or otherwise.

If a witness refuses to comply with a subpoena issued by the committee or refuses to grant access to information requested by the committee, the refusal is a legislative contempt. The committee may vote on whether the witness or individual has committed a legislative contempt. If a majority of the committee votes yes, the legislative audit committee shall convene and vote on whether the witness or individual has committed a legislative contempt. If two-thirds of the members of the legislative audit committee vote affirmatively, the witness or individual has committed a legislative contempt.

If a witness or individual commits a legislative contempt and the witness or individual is employed by the state government, the branch of state government that employs the witness or individual is required to terminate the employment of the witness or individual, and the witness or individual will not receive compensation for any services rendered for the state government after the date of termination. The state government shall not employ or compensate for services a witness or individual that has committed a legislative contempt.

A witness or individual may assert the privilege against self-incrimination when subpoenaed or asked to grant access to books, accounts, reports, vouchers, or other records or information. The committee can vote to deny the witness the ability to assert the privilege against self-incrimination. If the committee votes to deny the privilege against self-incrimination, the witness is not subject to criminal prosecution for the statements made or information provided to the committee.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 2-3-1708 as
3 follows:

4 **2-3-1708. Authority to subpoena witnesses - access to records.**

5 (1) FOR THE PURPOSES OF IMPLEMENTING AND CARRYING OUT THE

1 POWERS AND DUTIES ASSIGNED TO THE COMMITTEE PURSUANT TO SECTION
 2 2-3-1704, THE COMMITTEE HAS THE POWER TO SUBPOENA WITNESSES,
 3 TAKE TESTIMONY UNDER OATH, AND ASSEMBLE RECORDS AND
 4 DOCUMENTS, BY SUBPOENA DUCES TECUM OR OTHERWISE, WITH THE SAME
 5 POWER AND AUTHORITY AS COURTS OF RECORD AND MAY APPLY TO
 6 COURTS OF RECORD FOR THE ENFORCEMENT OF THESE POWERS. <{*The*
 7 *committee would have to run a resolution to get authority for a court*
 8 *enforcement action. Do you want to give the committee the power to go*
 9 *to court without the authorization of the General Assembly?*> THE
 10 SHERIFF OF ANY COUNTY SHALL SERVE A SUBPOENA ON WRITTEN ORDER
 11 OF THE COMMITTEE IN THE SAME MANNER AS PROCESS IS SERVED IN CIVIL
 12 ACTIONS. WITNESSES SUBPOENAED TO APPEAR BEFORE THE COMMITTEE
 13 RECEIVE THE SAME FEES AND EXPENSES AS WITNESSES IN CIVIL CASES.

14 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COMMITTEE IS
 15 AUTHORIZED TO HAVE ACCESS UPON REQUEST TO ALL BOOKS, ACCOUNTS,
 16 REPORTS, VOUCHERS, OR OTHER RECORDS OR INFORMATION OF A
 17 DEPARTMENT OR AGENCY THAT THE COMMITTEE OVERSEES PURSUANT TO
 18 SECTION 2-3-1704, INCLUDING RECORDS OR INFORMATION REQUIRED TO
 19 BE KEPT CONFIDENTIAL OR EXEMPT FROM PUBLIC DISCLOSURE UPON
 20 SUBPOENA, SEARCH WARRANT, DISCOVERY PROCEEDINGS, OR OTHERWISE.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 2-3-1709 as
 22 follows:

23 **2-3-1709. Noncompliance with committee subpoena or request**
 24 **for information - legislative contempt - termination of state**
 25 **employment.**

26 (1) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
 27 OTHERWISE REQUIRES, "STATE GOVERNMENT" MEANS EVERY BRANCH OR

1 ARM OF THE STATE GOVERNMENT OF COLORADO, INCLUDING THE
2 EXECUTIVE BRANCH, THE LEGISLATIVE BRANCH, THE JUDICIAL BRANCH,
3 THE DEPARTMENT OF LAW, THE DEPARTMENT OF STATE, THE DEPARTMENT
4 OF THE TREASURY, AND STATE-SUPPORTED INSTITUTIONS OF HIGHER
5 EDUCATION, INCLUDING THE AURARIA HIGHER EDUCATION CENTER
6 ESTABLISHED IN ARTICLE 70 OF TITLE 23.

7 (2) (a) IF A WITNESS OR INDIVIDUAL REFUSES TO COMPLY WITH A
8 SUBPOENA ISSUED BY THE COMMITTEE OR REFUSES TO GRANT ACCESS TO
9 BOOKS, ACCOUNTS, REPORTS, VOUCHERS, OR OTHER RECORDS OR
10 INFORMATION REQUESTED BY THE COMMITTEE PURSUANT TO SECTION
11 2-3-1708, THE WITNESS COMMITS A LEGISLATIVE CONTEMPT.

12 (b) THE COMMITTEE MAY VOTE ON WHETHER THE WITNESS OR
13 INDIVIDUAL HAS COMMITTED A LEGISLATIVE CONTEMPT. <{How does this
14 come before the committee? Does the chair bring it or can any member
15 make a motion? What standard should the vote be based on, beyond a
16 reasonable doubt, clear and convincing, or preponderance of the
17 evidence?}> IF A MAJORITY OF THE COMMITTEE VOTES AFFIRMATIVELY,
18 THE LEGISLATIVE AUDIT COMMITTEE SHALL CONVENE AND VOTE ON
19 WHETHER THE WITNESS OR INDIVIDUAL HAS COMMITTED A LEGISLATIVE
20 CONTEMPT. IF TWO-THIRDS OF THE MEMBERS OF THE LEGISLATIVE AUDIT
21 COMMITTEE VOTE AFFIRMATIVELY, THE WITNESS OR INDIVIDUAL HAS
22 COMMITTED A LEGISLATIVE CONTEMPT.

23 (3) WHEN SUBPOENAED OR ASKED TO GRANT ACCESS TO BOOKS,
24 ACCOUNTS, REPORTS, VOUCHERS, OR OTHER RECORDS OR INFORMATION IN
25 ACCORDANCE WITH SECTION 2-3-1708, A WITNESS OR INDIVIDUAL MAY
26 ASSERT THE PRIVILEGE AGAINST SELF-INCRIMINATION. WHEN A WITNESS
27 ASSERTS THE PRIVILEGE AGAINST SELF-INCRIMINATION, THE COMMITTEE

1 SHALL VOTE AS TO WHETHER THE WITNESS OR INDIVIDUAL MAY REFUSE TO
2 COMPLY WITH A SUBPOENA OR OTHERWISE WITHHOLD INFORMATION DUE
3 TO THE ASSERTION OF THE PRIVILEGE. <{What standard is the committee
4 using to make this determination?}> IF THE COMMITTEE VOTES THAT THE
5 WITNESS OR INDIVIDUAL MUST COMPLY WITH THE SUBPOENA OR
6 OTHERWISE PROVIDE INFORMATION REGARDLESS OF THE ASSERTION OF
7 THE PRIVILEGE:

8 (a) THE WITNESS OR INDIVIDUAL SHALL NOT BE CRIMINALLY
9 PROSECUTED FOR ANY FACT OR INFORMATION RELATED TO THE
10 TESTIMONY OR INFORMATION THAT THE WITNESS OR INDIVIDUAL WAS
11 COMPELLED TO PROVIDE; AND

12 (b) TESTIMONY OR INFORMATION THAT THE WITNESS OR
13 INDIVIDUAL WAS COMPELLED TO PROVIDE MUST NOT BE USED AS EVIDENCE
14 IN ANY CRIMINAL PROCEEDING AGAINST THE WITNESS OR INDIVIDUAL,
15 EXCEPT IN A PROSECUTION FOR PERJURY OR CONTEMPT RELATED TO THE
16 MATTER IN WHICH THE WITNESS ATTEMPTED TO ASSERT THE PRIVILEGE
17 AGAINST SELF-INCRIMINATION.

18 (4) IF A WITNESS OR INDIVIDUAL COMMITS LEGISLATIVE CONTEMPT
19 PURSUANT TO THIS SECTION AND THE WITNESS OR INDIVIDUAL IS
20 EMPLOYED BY THE STATE GOVERNMENT, THE BRANCH OF STATE
21 GOVERNMENT THAT EMPLOYS THE WITNESS OR INDIVIDUAL SHALL
22 TERMINATE THE EMPLOYMENT OF THE WITNESS OR INDIVIDUAL, AND THE
23 WITNESS OR INDIVIDUAL SHALL NOT RECEIVE COMPENSATION FOR ANY
24 SERVICES RENDERED FOR THE STATE GOVERNMENT AFTER THE DATE OF
25 TERMINATION. THE STATE GOVERNMENT SHALL NOT EMPLOY OR
26 COMPENSATE FOR SERVICES A WITNESS OR INDIVIDUAL THAT HAS
27 COMMITTED A LEGISLATIVE CONTEMPT PURSUANT TO THIS SECTION.

1 **SECTION 3. Safety clause.** The general assembly finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety or for appropriations for
4 the support and maintenance of the departments of the state and state
5 institutions.