

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0204.01 Conrad Imel x2313

HOUSE BILL 22-1119

HOUSE SPONSORSHIP

Gray and Weissman, Bird, Exum, Herod, Hooton, Jodeh, Lindsay, Ricks, Valdez A.

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A BILL FOR AN ACT

101 **CONCERNING CIVIL LIABILITY FOR PRESENTING FALSE CLAIMS FOR**
102 **PAYMENT TO THE STATE, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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>.)

The bill establishes the "Colorado False Claims Act" (the act). Pursuant to the act, a person is liable to the state or a political subdivision of the state for a civil penalty if the person commits, conspires to commit, or aids and abets the commission of any of the following (collectively, "false claims"):

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 9, 2022

SENATE
Amended 2nd Reading
May 6, 2022

HOUSE
3rd Reading Unamended
April 28, 2022

HOUSE
Amended 2nd Reading
April 27, 2022

- Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval;
- Knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim;
- Having possession, custody, or control of property or money used, or to be used, by the state or political subdivision and knowingly delivering, or causing to be delivered, less than all of the money or property;
- Authorizing the making or delivery of a document certifying receipt of property used, or to be used, by the state or political subdivision and, with the intent to defraud the state or political subdivision, making or delivering the receipt without completely knowing that the information on the receipt is true;
- Knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the state or political subdivision who lawfully may not sell or pledge the property; or
- Knowingly making, using, or causing to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or political subdivision, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state or political subdivision.

A person who makes a false claim is liable to the state or a political subdivision for the same amount provided in the federal "False Claims Act", as adjusted for inflation, plus 3 times the amount of the damages sustained by the state or political subdivision, and the costs incurred for the investigation and prosecution of the false claim.

The bill requires the attorney general or a local prosecutor to investigate false claims. The attorney general, prosecuting authority of a political subdivision, or a private individual (relator) may bring a civil action against a person who made a false claim. The bill permits the attorney general or prosecuting authority of a political subdivision to intervene in an action brought by a relator. A relator may be awarded up to 30% of the proceeds from a false claims action based on the extent the relator contributed to the investigation and prosecution of the false claim. If the relator is an employee of the state or political subdivision and learns information about the false claim in the course of the relator's work, the court will award that amount to the relator's employer.

The bill authorizes the state auditor to share information about potential false claims with the attorney general and a political subdivision.

A court cannot hear a false claim action:

1 CONTEXT OTHERWISE REQUIRES:

2 (1) (a) "CLAIM" MEANS A REQUEST OR DEMAND, WHETHER UNDER
3 A CONTRACT OR OTHERWISE, FOR MONEY OR PROPERTY AND WHETHER OR
4 NOT THE STATE OR A POLITICAL SUBDIVISION HAS TITLE TO THE MONEY OR
5 PROPERTY, THAT IS:

6 (I) PRESENTED TO AN OFFICER, EMPLOYEE, OR AGENT OF THE
7 STATE OR POLITICAL SUBDIVISION; OR

8 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT, IF
9 THE MONEY OR PROPERTY IS TO BE SPENT OR USED ON THE STATE'S OR
10 POLITICAL SUBDIVISION'S BEHALF OR TO ADVANCE A GOVERNMENT
11 PROGRAM OR INTEREST, AND IF THE STATE OR POLITICAL SUBDIVISION:

12 (A) PROVIDES OR HAS PROVIDED ANY PORTION OF THE MONEY OR
13 PROPERTY REQUESTED OR DEMANDED; OR

14 (B) WILL REIMBURSE SUCH CONTRACTOR, GRANTEE, OR OTHER
15 RECIPIENT FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS
16 REQUESTED OR DEMANDED.

17 (b) "CLAIM" INCLUDES THE FAILURE TO PAY OR THE
18 UNDERPAYMENT OF AN OBLIGATION OWED TO THE STATE.

19 (c) "CLAIM" DOES NOT INCLUDE A REQUEST OR DEMAND FOR
20 MONEY OR PROPERTY THAT THE STATE OR A POLITICAL SUBDIVISION HAS
21 PAID:

22 (I) TO AN INDIVIDUAL AS COMPENSATION FOR EMPLOYMENT BY
23 THE STATE OR POLITICAL SUBDIVISION;

24 (II) AS AN INCOME SUBSIDY WITH NO RESTRICTIONS ON THAT
25 INDIVIDUAL'S USE OF THE MONEY OR PROPERTY;

26 (III) TO AN INDIVIDUAL AS PART OF A GOVERNMENT ASSISTANCE
27 PROGRAM IN AN AMOUNT LESS THAN TEN THOUSAND DOLLARS IN A

1 CALENDAR YEAR; OR

2 (IV) To A PERSON UNDER THE "COLORADO MEDICAL ASSISTANCE
3 ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5.

4 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LAW.

5 (3) "FUND" MEANS THE FALSE CLAIMS RECOVERY CASH FUND
6 CREATED IN SECTION 24-31-1209.

7 (4) (a) "KNOWING" OR "KNOWINGLY" MEAN THAT A PERSON, WITH
8 RESPECT TO INFORMATION ABOUT A CLAIM:

9 (I) HAS ACTUAL KNOWLEDGE OF THE FALSITY OF THE
10 INFORMATION;

11 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
12 THE INFORMATION; OR

13 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
14 THE INFORMATION.

15 (b) "KNOWING" OR "KNOWINGLY" DOES NOT REQUIRE PROOF OF
16 SPECIFIC INTENT TO DEFRAUD. A PERSON WHO ACTS MERELY NEGLIGENTLY
17 WITH RESPECT TO INFORMATION IS NOT DEEMED TO HAVE ACTED
18 KNOWINGLY, UNLESS THE PERSON ACTS WITH RECKLESS DISREGARD OF
19 THE TRUTH OR FALSITY OF THE INFORMATION.

20 (5) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO
21 INFLUENCE, OR BE CAPABLE OF INFLUENCING, THE PAYMENT OR RECEIPT
22 OF MONEY OR PROPERTY.

23 (6) "OBLIGATION" MEANS AN ESTABLISHED DUTY, WHETHER OR
24 NOT FIXED, ARISING FROM AN EXPRESS OR IMPLIED CONTRACTUAL,
25 GRANTOR-GRANTEE, OR LICENSOR-LICENSEE RELATIONSHIP; FROM A
26 FEE-BASED OR SIMILAR RELATIONSHIP; FROM STATUTE OR REGULATION; OR
27 FROM THE RETENTION OF ANY OVERPAYMENT.

1 (7) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS
2 TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP,
3 ASSOCIATION, OR OTHER NONGOVERNMENTAL LEGAL ENTITY.

4 (8) "POLITICAL SUBDIVISION" HAS THE SAME MEANING AS SET
5 FORTH IN SECTION 24-72-202.

6 (9) "PROCEEDS" MEANS ALL MONEY, PROPERTY, DAMAGES,
7 DOUBLE DAMAGES, TREBLE DAMAGES, CIVIL PENALTIES, AND PAYMENTS
8 FOR COSTS OF COMPLIANCE, INCLUDING REASONABLE COSTS AND
9 ATTORNEY FEES, REALIZED BY THE STATE WHETHER AS A RESULT OF ANY
10 SETTLEMENT OF OR JUDGMENT ENTERED IN ANY ACTION BROUGHT
11 PURSUANT TO THIS PART 12.

12 ==
13 [REDACTED]

14 **24-31-1203. False claims - civil liability for certain acts -**
15 **penalty - exception.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION
16 ANDEXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION,
17 A PERSON IS LIABLE TO THE STATE == FOR A CIVIL PENALTY OF NOT LESS
18 THAN ELEVEN THOUSAND EIGHT HUNDRED DOLLARS AND NOT MORE THAN
19 TWENTY-THREE THOUSAND SIX HUNDRED DOLLARS PER VIOLATION, PLUS
20 THREE TIMES THE AMOUNT OF DAMAGES THAT THE STATE == SUSTAINS
21 BECAUSE OF THE ACT OF THAT PERSON, IF THAT PERSON:

22 (a) KNOWINGLY PRESENTS, OR CAUSES TO BE PRESENTED, A FALSE
23 OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

24 (b) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A
25 FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT
26 CLAIM;

27 (c) HAS POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR

1 MONEY USED, OR TO BE USED, BY THE STATE OR POLITICAL SUBDIVISION
2 AND KNOWINGLY DELIVERS, OR CAUSES TO BE DELIVERED, LESS THAN ALL
3 OF THE MONEY OR PROPERTY;

4 (d) AUTHORIZES THE MAKING OR DELIVERY OF A DOCUMENT
5 CERTIFYING RECEIPT OF PROPERTY USED, OR TO BE USED, BY THE STATE OR
6 POLITICAL SUBDIVISION AND, WITH THE INTENT TO DEFRAUD THE STATE OR
7 POLITICAL SUBDIVISION, MAKES OR DELIVERS THE RECEIPT WITHOUT
8 COMPLETELY KNOWING THAT THE INFORMATION ON THE RECEIPT IS TRUE;

9 (e) KNOWINGLY BUYS, OR RECEIVES AS A PLEDGE OF AN
10 OBLIGATION OR DEBT, PUBLIC PROPERTY FROM AN OFFICER OR EMPLOYEE
11 OF THE STATE OR POLITICAL SUBDIVISION WHO LAWFULLY MAY NOT SELL
12 OR PLEDGE THE PROPERTY;

13 (f) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A
14 FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR
15 TRANSMIT MONEY OR PROPERTY TO THE STATE OR POLITICAL SUBDIVISION,
16 OR KNOWINGLY CONCEALS OR KNOWINGLY AND IMPROPERLY AVOIDS OR
17 DECREASES AN OBLIGATION TO PAY OR TRANSMIT MONEY OR PROPERTY TO
18 THE STATE OR POLITICAL SUBDIVISION; [REDACTED]

19 (g) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED,
20 A FALSE RECORD OR STATEMENT RESULTING IN THE UNDERPAYMENT OF
21 PREMIUMS OWED TO THE UNEMPLOYMENT COMPENSATION FUND
22 ESTABLISHED IN SECTION 8-77-101 OR IN THE PAYMENT OF
23 UNEMPLOYMENT INSURANCE BENEFITS OF MORE THAN FIFTEEN THOUSAND
24 DOLLARS IN A CALENDAR YEAR; OR

25 (h) CONSPIRES TO COMMIT A VIOLATION OF SUBSECTIONS (1)(a) TO
26 (1)(g) OF THIS SECTION.

27 (2) (a) NOTWITHSTANDING THE AMOUNT OF DAMAGES

1 AUTHORIZED IN SUBSECTION (1) OF THIS SECTION, FOR A PERSON WHO
2 VIOLATES SUBSECTION (1) OF THIS SECTION, THE COURT MAY ASSESS
3 REDUCED DAMAGES AND PENALTIES AS DESCRIBED IN SUBSECTION (2)(b)
4 OR (2)(c) OF THIS SECTION IF THE COURT FINDS THAT:

5 (I) THE PERSON WHO COMMITTED THE VIOLATION FURNISHED TO
6 THE OFFICIALS OF THE STATE OR POLITICAL SUBDIVISION RESPONSIBLE FOR
7 INVESTIGATING FALSE CLAIMS VIOLATIONS ALL INFORMATION ABOUT THE
8 VIOLATION KNOWN TO THE PERSON AND FURNISHED SAID INFORMATION
9 WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE PERSON FIRST
10 LEARNED OF A POTENTIAL VIOLATION;

11 (II) AT THE TIME THE PERSON FURNISHED THE INFORMATION
12 ABOUT THE VIOLATION TO THE OFFICIALS OF THE STATE OR POLITICAL
13 SUBDIVISION, THE PERSON DID NOT HAVE ACTUAL OR CONSTRUCTIVE
14 KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION INTO THE
15 VIOLATION; AND

16 (III) THE PERSON FULLY COOPERATED WITH ANY INVESTIGATION
17 OF THE VIOLATION BY THE STATE.

18 (b) IF A PERSON DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
19 FURNISHED INFORMATION ABOUT THE VIOLATION TO THE OFFICIALS OF THE
20 STATE OR POLITICAL SUBDIVISION BEFORE A CRIMINAL PROSECUTION, CIVIL
21 ACTION, OR ADMINISTRATIVE ACTION WAS COMMENCED WITH RESPECT TO
22 THE VIOLATION, THE COURT SHALL ASSESS ONE AND ONE-HALF THE
23 AMOUNT OF ACTUAL DAMAGES RESULTING FROM THE FALSE CLAIM,
24 INCLUDING INTEREST FROM THE DATE OF THE FRAUD TO THE DATE OF FULL
25 REPAYMENT OF ALL DAMAGES, THAT THE STATE OR POLITICAL
26 SUBDIVISION SUSTAINS BECAUSE OF THE VIOLATION AND A CIVIL PENALTY
27 OF NOT LESS THAN FIVE THOUSAND NINE HUNDRED DOLLARS AND NOT

1 MORE THAN ELEVEN THOUSAND EIGHT HUNDRED DOLLARS PER VIOLATION.

2 (c) IF A PERSON DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
3 FURNISHED INFORMATION ABOUT THE VIOLATION TO THE OFFICIALS OF THE
4 STATE _____ WHILE A CRIMINAL PROSECUTION, CIVIL ACTION, OR
5 ADMINISTRATIVE ACTION CONCERNING THE VIOLATION WAS UNDER SEAL
6 PURSUANT TO SECTION 24-31-1204 (3)(b), THE COURT SHALL ASSESS
7 DOUBLE THE AMOUNT OF ACTUAL DAMAGES RESULTING FROM THE FALSE
8 CLAIM, INCLUDING INTEREST FROM THE DATE OF THE FRAUD TO THE DATE
9 OF FULL REPAYMENT OF ALL DAMAGES, THAT THE STATE OR POLITICAL
10 SUBDIVISION SUSTAINS BECAUSE OF THE VIOLATION AND A CIVIL PENALTY
11 OF NOT LESS THAN SEVEN THOUSAND EIGHT HUNDRED DOLLARS AND NOT
12 MORE THAN FIFTEEN THOUSAND SEVEN HUNDRED DOLLARS PER
13 VIOLATION.

14 (d) THE ATTORNEY GENERAL MAY DETERMINE WHETHER A PERSON
15 MEETS THE CRITERIA DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
16 AND SUBMIT THE DETERMINATION AND REASONING TO THE COURT, WHICH
17 THE COURT MAY CONSIDER WHEN MAKING A FINDING AS TO WHETHER THE
18 PERSON SATISFIES THE CRITERIA DESCRIBED IN SUBSECTION (2)(a) OF THIS
19 SECTION.

20 (3) ANY INFORMATION FURNISHED PURSUANT TO SUBSECTION (2)
21 OF THIS SECTION IS EXEMPT FROM DISCLOSURE PURSUANT TO THE
22 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE
23 24.

24 (4) A PERSON WHO VIOLATES THIS SECTION IS ALSO LIABLE TO THE
25 STATE ___ FOR REASONABLE ATTORNEY FEES AND THE COSTS INCURRED
26 DURING THE ENFORCEMENT OF THIS PART 12.

27 (5) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR

1 STATEMENTS MADE PURSUANT TO TITLE 39.

2 (6) (a) THE MAXIMUM AND MINIMUM AMOUNTS FOR THE CIVIL
3 PENALTIES DESCRIBED IN THIS SECTION MUST BE ADJUSTED FOR INFLATION
4 ON JULY 1, 2023, AND EACH JULY 1 THEREAFTER. THE ADJUSTMENT MADE
5 PURSUANT TO THIS SUBSECTION (6) MUST BE ROUNDED UPWARD OR
6 DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT. THE SECRETARY
7 OF STATE SHALL CERTIFY THE ADJUSTED MAXIMUM AND MINIMUM
8 AMOUNTS FOR CIVIL PENALTIES WITHIN FOURTEEN DAYS AFTER THE
9 APPROPRIATE INFORMATION IS AVAILABLE.

10 (b) FOR EACH ACTION BROUGHT PURSUANT TO THIS PART 12, THE
11 APPLICABLE MINIMUM AND MAXIMUM AMOUNTS FOR A CIVIL PENALTY ARE
12 THE AMOUNTS IN EFFECT ON THE DATE THE CAUSE OF ACTION ACCRUES.

13 (c) AS USED IN THIS SECTION, "INFLATION" MEANS THE ANNUAL
14 PERCENTAGE CHANGE IN THE DENVER-AURORA-LAKEWOOD CONSUMER
15 PRICE INDEX, OR ITS APPLICABLE SUCCESSOR INDEX, PUBLISHED BY THE
16 UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS.

17 (7) FOR ACCOUNTING PURPOSES, A FINE OR PENALTY RECEIVED BY
18 THE STATE PURSUANT TO THIS PART 12 IS A DAMAGE AWARD.

19 (8) (a) SUBJECT TO SECTION 24-31-1204 (4)(e), IF THE ATTORNEY
20 GENERAL ___ HAS AUTHORITY TO BRING OR INTERVENE IN A CIVIL ACTION
21 PURSUANT TO THIS PART 12, THE ATTORNEY GENERAL ___ MAY ACCEPT
22 FROM A PERSON ALLEGED TO HAVE VIOLATED SUBSECTION (1) OF THIS
23 SECTION, IN LIEU OF OR AS A PART OF A CIVIL ACTION, AN ASSURANCE OF
24 DISCONTINUANCE OR A CONSENT ORDER APPROVED BY A COURT OF
25 COMPETENT JURISDICTION OF THE ALLEGED VIOLATION OF THIS PART 12.
26 THE ASSURANCE OR CONSENT ORDER MAY INCLUDE A STIPULATION FOR
27 THE VOLUNTARY PAYMENT BY THE ALLEGED VIOLATOR OF ANY RELIEF

1 AUTHORIZED BY THIS PART 12, INCLUDING PAYMENT FOR INVESTIGATION
2 AND LITIGATION COSTS INCURRED BY THE ATTORNEY GENERAL OR
3 PRIVATE PERSON WHO BROUGHT AN ACTION PURSUANT TO SECTION
4 24-31-1204 (3), AND ACTUAL DAMAGES RESULTING FROM THE FALSE
5 CLAIM PLUS ANY AUTHORIZED MULTIPLIER, INTEREST, AND CIVIL MONEY
6 PENALTY.

7 (b) AN ASSURANCE OF DISCONTINUANCE OR CONSENT ORDER
8 ACCEPTED BY THE ATTORNEY GENERAL PRECLUDES A SEPARATE ACTION
9 PURSUANT TO SECTION 24-31-1204 (3) BY ANY PERSON BASED ON THE
10 SAME FACTUAL CIRCUMSTANCES, EXCEPT FOR AN ACTION BASED ON A
11 VIOLATION OF THE ASSURANCE OF DISCONTINUANCE OR CONSENT ORDER.

12 (c) AN ASSURANCE OF DISCONTINUANCE ACCEPTED BY THE
13 ATTORNEY GENERAL AND ANY CONSENT ORDER FILED WITH THE COURT
14 AS A PART OF AN ACTION IS A MATTER OF PUBLIC RECORD UNLESS THE
15 ATTORNEY GENERAL DETERMINES, AT THE ATTORNEY GENERAL'S
16 DISCRETION, THAT IT IS CONFIDENTIAL TO THE PARTIES TO THE ACTION OR
17 PROCEEDING AND TO THE COURT AND ITS EMPLOYEES. UPON THE FILING OF
18 A CIVIL ACTION OR A MOTION OR PETITION IN A PENDING CIVIL ACTION BY
19 THE ATTORNEY GENERAL ALLEGING THAT A PERSON HAS VIOLATED A
20 CONFIDENTIAL ASSURANCE OF DISCONTINUANCE OR CONSENT ORDER
21 ACCEPTED PURSUANT TO THIS SUBSECTION (8), THE ASSURANCE OF
22 DISCONTINUANCE OR CONSENT ORDER IS A PUBLIC RECORD AND OPEN TO
23 INSPECTION BY ANY PERSON.

24 (d) PROOF BY A PREPONDERANCE OF THE EVIDENCE OF A
25 VIOLATION OF AN ASSURANCE OR STIPULATION OR CONSENT ORDER IS
26 PRIMA FACIE EVIDENCE OF A VIOLATION FOR THE PURPOSES OF ANY CIVIL
27 ACTION OR PROCEEDING BROUGHT BY THE ATTORNEY GENERAL AFTER

1 THE ALLEGED VIOLATION OF THE ASSURANCE OR STIPULATION OR CONSENT
2 ORDER, WHETHER A NEW ACTION OR A MOTION OR PETITION IN A PENDING
3 ACTION OR PROCEEDING.

4 **24-31-1204. Civil actions for false claims - claims for**
5 **retaliation - definitions. (1) Responsibility of attorney general.**

6 (a) THE ATTORNEY GENERAL SHALL DILIGENTLY INVESTIGATE A
7 VIOLATION OF SECTION 24-31-1203. IF THE ATTORNEY GENERAL FINDS
8 THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION 24-31-1203, THE
9 ATTORNEY GENERAL MAY BRING A CIVIL ACTION AGAINST THE PERSON
10 PURSUANT TO THIS SECTION.

11 ==
12 (b) IN ANY ACTION BROUGHT PURSUANT TO THIS PART 12 IN WHICH
13 THE ATTORNEY GENERAL IS A PARTY, EITHER AS THE PLAINTIFF OR AS AN
14 INTERVENOR, THE COURT MAY DISMISS THE ACTION UPON MOTION OF THE
15 ATTORNEY GENERAL FOLLOWING THE NOTICE AND OPPORTUNITY FOR A
16 HEARING PURSUANT TO SUBSECTION (4)(b)(I) OF THIS SECTION. IN
17 DETERMINING WHETHER TO FILE A MOTION TO DISMISS, THE ATTORNEY
18 GENERAL SHALL CONSIDER THE SEVERITY OF THE FALSE CLAIM, PROGRAM
19 OR POPULATION IMPACTED BY THE FALSE CLAIM, DURATION OF THE FRAUD,
20 WEIGHT AND MATERIALITY OF THE EVIDENCE, OTHER MEANS TO MAKE THE
21 PROGRAM WHOLE, AND OTHER FACTORS THE ATTORNEY GENERAL DEEMS
22 RELEVANT. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS
23 CONCERNING A MOTION TO DISMISS AND ANY RECORDS RELATED TO THE
24 DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

25 ==
26 (2) **Role of the office of the state auditor.**

27 (a) NOTWITHSTANDING ANY OTHER STATE LAW REQUIRING THE STATE

1 AUDITOR TO KEEP INFORMATION CONFIDENTIAL, IF IN THE COURSE OF ITS
2 AUDIT AUTHORITY, THE OFFICE OF THE STATE AUDITOR IDENTIFIES
3 INFORMATION OF POTENTIAL FALSE CLAIMS SUBMITTED TO THE STATE OR
4 A POLITICAL SUBDIVISION, THE STATE AUDITOR MAY SHARE ANY
5 INFORMATION WITH THE ATTORNEY GENERAL OR THE POLITICAL
6 SUBDIVISION. THE STATE AUDITOR MAY PARTICIPATE, WITH THE CONSENT
7 OF THE ATTORNEY GENERAL, IN ANY SUBSEQUENT INVESTIGATION OR
8 PROSECUTION OF THAT FALSE CLAIM.

9 (b) IF THE STATE AUDITOR ELECTS TO PARTICIPATE IN ANY
10 INVESTIGATION AND PROSECUTION OF A FALSE CLAIM, THE STATE
11 AUDITOR'S INTERESTS WILL BE REPRESENTED BY THE ATTORNEY GENERAL.

12 **(3) Actions by private persons.** (a) A PERSON MAY BRING A CIVIL
13 ACTION FOR A VIOLATION OF SECTION 24-31-1203 FOR THE PERSON AND
14 FOR THE STATE. THE ACTION MUST BE BROUGHT IN THE NAME OF THE
15 STATE. THE COURT SHALL NOT DISMISS AN ACTION UPON MOTION OF
16 THE PRIVATE PERSON WHO BROUGHT THE ACTION UNLESS THE ATTORNEY
17 GENERAL GIVES WRITTEN CONSENT TO THE DISMISSAL AND
18 REASONS FOR CONSENTING.

19 (b) (I) A PERSON WHO BRINGS AN ACTION SHALL SERVE ON THE
20 STATE, PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL
21 PROCEDURE, A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF
22 SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE PERSON
23 POSSESSES; EXCEPT THAT THE PERSON SHALL NOT DISCLOSE ANY
24 EVIDENCE OR INFORMATION THAT THE PERSON REASONABLY BELIEVES IS
25 PROTECTED BY THE DEFENDANT'S ATTORNEY-CLIENT PRIVILEGE UNLESS
26 THE PRIVILEGE WAS WAIVED, INADVERTENTLY OR OTHERWISE, BY THE
27 PERSON WHO HOLDS THE PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE

1 APPLIES; OR DISCLOSURE OF THE INFORMATION IS PERMITTED BY AN
2 ATTORNEY PURSUANT TO 17 CFR 205.3 (d)(2), THE APPLICABLE
3 COLORADO RULES OF PROFESSIONAL CONDUCT, OR OTHERWISE. THE
4 COMPLAINT MUST BE FILED IN CAMERA, MUST REMAIN UNDER SEAL FOR AT
5 LEAST SIXTY-THREE DAYS, AND MUST NOT BE SERVED ON THE DEFENDANT
6 UNTIL THE COURT SO ORDERS. THE STATE ___ MAY ELECT TO INTERVENE
7 AND PROCEED WITH THE ACTION WITHIN SIXTY-THREE DAYS AFTER IT
8 RECEIVES BOTH THE COMPLAINT AND THE MATERIAL EVIDENCE AND
9 INFORMATION. ___

10 (II) IN DETERMINING WHETHER TO INTERVENE AND PROCEED WITH
11 AN ACTION PURSUANT TO THIS SUBSECTION (3)(b), THE ATTORNEY
12 GENERAL SHALL CONSIDER THE FACTORS DESCRIBED IN SUBSECTION (1)(d)
13 OF THIS SECTION. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS
14 CONCERNING WHETHER TO INTERVENE AND ANY RECORDS RELATED TO
15 THE DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

16 (c) THE STATE ___ MAY, FOR GOOD CAUSE SHOWN, MOVE THE
17 COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT
18 REMAINS UNDER SEAL PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION.
19 THE MOTION MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS
20 IN CAMERA. THE DEFENDANT IS NOT REQUIRED TO RESPOND TO ANY
21 COMPLAINT FILED PURSUANT TO THIS SECTION UNTIL TWENTY-ONE DAYS
22 AFTER THE COMPLAINT IS UNSEALED AND SERVED UPON THE DEFENDANT
23 PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

24 (d) BEFORE THE EXPIRATION OF THE SIXTY-THREE-DAY PERIOD
25 PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION AND ANY EXTENSIONS
26 OBTAINED PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION, THE STATE
27 ___ SHALL:

1 (I) PROCEED WITH THE ACTION, IN WHICH CASE THE STATE ___
2 SHALL CONDUCT THE ACTION; OR

3 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE
4 ACTION, IN WHICH CASE THE PERSON WHO BROUGHT THE ACTION HAS THE
5 RIGHT TO CONTINUE THE ACTION.

6 (e) WHEN A PERSON BRINGS AN ACTION PURSUANT TO THIS
7 SUBSECTION (3), ONLY THE STATE MAY INTERVENE OR BRING A RELATED
8 ACTION BASED ON THE FACTS UNDERLYING THE PENDING ACTION.

9 (f) ANY INFORMATION PROVIDED BY A PERSON TO THE STATE ___
10 PURSUANT TO THIS SUBSECTION (3) IS EXEMPT FROM DISCLOSURE
11 PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
12 72 OF THIS TITLE 24.

13 (4) **Rights of parties to private actions.** (a) IF THE STATE ___
14 PROCEEDS WITH AN ACTION BROUGHT PURSUANT TO SUBSECTION (3) OF
15 THIS SECTION, IT HAS THE PRIMARY RESPONSIBILITY FOR PROSECUTING THE
16 ACTION AND IS NOT BOUND BY AN ACT OF THE PERSON WHO BROUGHT THE
17 ACTION. THE PERSON HAS THE RIGHT TO CONTINUE AS A PARTY TO THE
18 ACTION, SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (3)(b) OF
19 THIS SECTION.

20 (b) (I) THE STATE ___ MAY, AT ANY TIME, DISMISS THE ACTION, IN
21 WHOLE OR IN PART, NOTWITHSTANDING THE OBJECTIONS OF THE PERSON
22 WHO BROUGHT THE ACTION IF THE PERSON HAS BEEN NOTIFIED BY THE
23 STATE ___ OF THE FILING OF THE MOTION AND THE COURT HAS PROVIDED
24 THE PERSON WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION.

25 (II) THE STATE ___ MAY SETTLE THE ACTION WITH THE DEFENDANT
26 NOTWITHSTANDING THE OBJECTIONS OF THE PERSON WHO BROUGHT THE
27 ACTION IF THE COURT DETERMINES, AFTER A HEARING, THAT THE

1 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER ALL
2 THE CIRCUMSTANCES. UPON A SHOWING OF GOOD CAUSE, THE COURT MAY
3 HOLD THE HEARING IN CAMERA.

4 (III) UPON A SHOWING BY THE STATE ___ THAT UNRESTRICTED
5 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON
6 WHO BROUGHT THE ACTION WOULD INTERFERE WITH OR UNDULY DELAY
7 THE STATE'S ___ PROSECUTION OF THE CASE, OR WOULD BE REPETITIOUS,
8 IRRELEVANT, OR FOR PURPOSES OF HARASSMENT, THE COURT MAY, IN ITS
9 DISCRETION, IMPOSE LIMITATIONS ON THE PERSON'S PARTICIPATION,
10 INCLUDING BUT NOT LIMITED TO:

11 (A) LIMITING THE NUMBER OF WITNESSES THE PERSON MAY CALL;

12 (B) LIMITING THE LENGTH OF THE TESTIMONY OF THE WITNESSES
13 CALLED BY THE PERSON;

14 (C) LIMITING THE PERSON'S CROSS-EXAMINATION OF WITNESSES;

15 AND

16 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE PERSON IN
17 THE LITIGATION.

18 (IV) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED
19 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON
20 WHO BROUGHT THE ACTION WOULD BE FOR PURPOSES OF HARASSMENT OR
21 WOULD CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
22 EXPENSE, THE COURT MAY LIMIT THE PARTICIPATION BY THE PERSON IN
23 THE LITIGATION AS DESCRIBED IN SUBSECTION (4)(b)(III) OF THIS SECTION.

24 (c) THE FACT THAT THE STATE ___ HAS ELECTED NOT TO
25 PROCEED WITH AN ACTION IS NOT A BASIS FOR A MOTION TO DISMISS,
26 MOTION FOR DETERMINATION OF A QUESTION OF LAW, OR MOTION FOR
27 SUMMARY JUDGMENT, NOR IS IT A BASIS TO DENY THE COURT

1 JURISDICTION OVER THE ACTION, BUT IF THE ATTORNEY GENERAL SUBMITS
2 TO THE COURT THE ATTORNEY GENERAL'S REASONS FOR NOT PROCEEDING
3 WITH THE ACTION, THE COURT MAY CONSIDER THE REASONS WHEN
4 DECIDING A MOTION OR WHETHER THE COURT HAS JURISDICTION. IF THE
5 STATE _____ SO REQUESTS, IT MUST BE SERVED WITH COPIES OF ALL
6 PLEADINGS FILED IN THE ACTION AND, AT THE STATE'S _____ EXPENSE, BE
7 SUPPLIED WITH COPIES OF ALL DEPOSITION TRANSCRIPTS. WHEN THE
8 PERSON PROCEEDS WITH THE ACTION, THE COURT, WITHOUT LIMITING THE
9 STATUS AND RIGHTS OF THE PERSON, MAY NEVERTHELESS PERMIT THE
10 STATE _____ TO INTERVENE AT A LATER DATE UPON A SHOWING OF GOOD
11 CAUSE.

12 (d) REGARDLESS OF WHETHER THE STATE _____ PROCEEDS WITH THE
13 ACTION, UPON A SHOWING BY THE STATE OR POLITICAL SUBDIVISION THAT
14 CERTAIN ACTIONS OF DISCOVERY BY THE PERSON WHO BROUGHT THE
15 ACTION WOULD INTERFERE WITH THE STATE'S _____ INVESTIGATION OR
16 PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME
17 FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE
18 THAN SIXTY-THREE DAYS. THE SHOWING BY THE STATE _____ MUST BE
19 CONDUCTED IN CAMERA. THE COURT MAY EXTEND THE SIXTY-THREE-DAY
20 PERIOD UPON A FURTHER SHOWING THAT THE STATE _____ HAS PURSUED THE
21 CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS WITH REASONABLE
22 DILIGENCE AND THAT ANY PROPOSED DISCOVERY IN THE CIVIL ACTION
23 WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION
24 OR PROCEEDINGS.

25 (e) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, THE
26 STATE _____ MAY ELECT TO PURSUE ITS CLAIM THROUGH ANY ALTERNATE
27 REMEDY AVAILABLE TO THE STATE. IF AN ALTERNATE REMEDY IS PURSUED

1 IN ANOTHER PROCEEDING, THE PERSON WHO BROUGHT THE ACTION
2 PURSUANT TO SUBSECTION (3) OF THIS SECTION HAS THE SAME RIGHTS IN
3 THAT PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE ACTION HAD
4 CONTINUED PURSUANT TO THIS SECTION. ANY FINDING OF FACT OR
5 CONCLUSION OF LAW MADE IN THE OTHER PROCEEDING THAT HAS BECOME
6 FINAL IS BINDING ON ALL PARTIES TO AN ACTION BROUGHT PURSUANT TO
7 THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (4)(e), A FINDING OR
8 CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL TO
9 THE APPROPRIATE COURT OF THE STATE, IF ALL TIME FOR FILING SUCH AN
10 APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED, OR
11 IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

12 (5) Award to a person who brings an action. (a) (I) SUBJECT TO
13 SUBSECTION (5)(a)(II) OF THIS SECTION, IF THE STATE ___ PROCEEDS WITH
14 AN ACTION BROUGHT BY A PERSON PURSUANT TO SUBSECTION (3) OF THIS
15 SECTION, THE COURT SHALL AWARD THE PERSON AT LEAST FIFTEEN
16 PERCENT BUT NOT MORE THAN TWENTY-FIVE PERCENT OF THE PROCEEDS
17 RECEIVED FROM THE ACTION OR SETTLEMENT OF THE CLAIM, DEPENDING
18 UPON THE EXTENT TO WHICH THE PERSON SUBSTANTIALLY CONTRIBUTED
19 TO THE INVESTIGATION AND PROSECUTION OF THE ACTION.

20 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON
21 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION
22 PROVIDED BY THE PERSON WHO BROUGHT THE ACTION, RELATING TO
23 ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR
24 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
25 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
26 MEDIA, THE COURT MAY AWARD TO THE PERSON SUCH SUMS AS IT
27 CONSIDERS APPROPRIATE BUT IN NO CASE MORE THAN TEN PERCENT OF

1 THE PROCEEDS. IN MAKING ITS DETERMINATION, THE COURT SHALL
2 CONSIDER THE SIGNIFICANCE OF THE INFORMATION PROVIDED BY THE
3 PERSON AND THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
4 LITIGATION.

5 (III) ANY PAYMENT TO A PERSON MADE PURSUANT TO THIS
6 SUBSECTION (5)(a) MUST BE MADE FROM THE PROCEEDS. IN ADDITION TO
7 AN AWARD MADE PURSUANT TO SUBSECTION (5)(a)(I) OR (5)(a)(II) OF THIS
8 SECTION, THE COURT SHALL AWARD THE PERSON AN AMOUNT FOR
9 REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN
10 NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY FEES AND COSTS.
11 THE COURT SHALL AWARD ALL OF THE EXPENSES, FEES, AND COSTS
12 AGAINST THE DEFENDANT.

13 (IV) IF THE PERSON WHO BROUGHT THE ACTION IS A GOVERNMENT
14 EMPLOYEE WHO, IN THE COURSE OF THE PERSON'S WORK FOR THE STATE ==
15 GAINS KNOWLEDGE OF ANY INFORMATION THAT FORMS, IN WHOLE OR IN
16 PART, THE BASIS OF THE PERSON'S CLAIM, THE COURT SHALL AWARD TO
17 THE STATE == THAT EMPLOYS THE PERSON THE AMOUNT THAT WOULD
18 OTHERWISE BE AWARDED TO THE PERSON PURSUANT TO THIS SUBSECTION
19 (5).

20 (b) IF THE STATE == DOES NOT INTERVENE IN AND PROCEED WITH
21 AN ACTION PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE
22 PERSON PREVAILING IN THE ACTION OR SETTLING THE CLAIM MUST
23 RECEIVE AN AMOUNT THAT THE COURT DECIDES IS REASONABLE FOR
24 COLLECTING THE CIVIL PENALTY AND DAMAGES. THE AMOUNT MUST BE AT
25 LEAST TWENTY-FIVE PERCENT BUT NOT MORE THAN THIRTY PERCENT OF
26 THE PROCEEDS RECEIVED FROM THE ACTION OR SETTLEMENT AND MUST BE
27 PAID OUT OF THE PROCEEDS. THE COURT SHALL AWARD THE PERSON AN

1 AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE
2 BEEN NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY FEES AND
3 COSTS. THE COURT SHALL AWARD ALL OF THE EXPENSES, FEES, AND COSTS
4 AGAINST THE DEFENDANT.

5 (c) REGARDLESS OF WHETHER THE STATE ___ INTERVENES IN AND
6 PROCEEDS WITH AN ACTION PURSUANT TO SUBSECTION (3)(b) OF THIS
7 SECTION, IF THE COURT FINDS THAT THE ACTION WAS BROUGHT BY A
8 PERSON WHO PLANNED AND INITIATED THE VIOLATION OF SECTION
9 24-31-1203 UPON WHICH THE ACTION WAS BROUGHT, THE COURT MAY, TO
10 THE EXTENT THE COURT CONSIDERS APPROPRIATE, REDUCE THE SHARE OF
11 THE PROCEEDS OF THE ACTION THAT THE PERSON WOULD OTHERWISE
12 RECEIVE PURSUANT TO THIS SUBSECTION (5), TAKING INTO ACCOUNT THE
13 ROLE OF THE PERSON IN ADVANCING THE CASE TO LITIGATION AND ANY
14 RELEVANT CIRCUMSTANCES PERTAINING TO THE VIOLATION. IF THE
15 PERSON IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM HIS OR HER
16 ROLE IN THE VIOLATION OF SECTION 24-31-1203, THE COURT SHALL
17 DISMISS THE PERSON FROM THE CIVIL ACTION AND THE PERSON MUST NOT
18 RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION. SUCH DISMISSAL
19 DOES NOT PREJUDICE THE RIGHT OF THE STATE ___ TO CONTINUE THE
20 ACTION.

21 (d) IF THE STATE ___ DOES NOT INTERVENE IN AND PROCEED WITH
22 AN ACTION PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION AND THE
23 PERSON WHO BROUGHT THE ACTION PURSUES THE ACTION, THE COURT
24 MAY AWARD TO THE DEFENDANT REASONABLE ATTORNEY FEES AND
25 EXPENSES IF THE DEFENDANT PREVAILS IN THE ACTION AND THE COURT
26 FINDS THAT THE CLAIM OF THE PERSON WAS CLEARLY FRIVOLOUS,
27 CLEARLY VEXATIOUS, OR BROUGHT PRIMARILY FOR PURPOSES OF

1 HARASSMENT.

2 (6) **Certain actions barred.** (a) A COURT DOES NOT HAVE
3 JURISDICTION OVER AN ACTION BROUGHT PURSUANT TO THIS SECTION:

4 (I) AGAINST A SERVING MEMBER OF THE GENERAL ASSEMBLY, A
5 MEMBER OF THE STATE JUDICIARY, AN EXECUTIVE DIRECTOR OF A STATE
6 AGENCY, OR AN ELECTED OFFICIAL IN THE EXECUTIVE BRANCH OF THE
7 STATE OF COLORADO ACTING IN THE MEMBER'S, EXECUTIVE DIRECTOR'S,
8 OR OFFICIAL'S OFFICIAL CAPACITY; _____

9 (II) AGAINST A SERVING ELECTED OFFICIAL OF A POLITICAL
10 SUBDIVISION, A MEMBER OF A POLITICAL SUBDIVISION'S JUDICIARY, OR AN
11 APPOINTED OFFICIAL OF A POLITICAL SUBDIVISION ACTING IN THE
12 MEMBER'S OR OFFICIAL'S OFFICIAL CAPACITY; OR

13 (III) IF THE ACTION IS BROUGHT BY A PERSON PURSUANT TO
14 SUBSECTION (3) OF THIS SECTION AND IS BASED ON EVIDENCE OR
15 INFORMATION KNOWN TO THE STATE ___ WHEN THE ACTION WAS BROUGHT.

16 (b) A PERSON MAY NOT BRING AN ACTION PURSUANT TO
17 SUBSECTION (3) OF THIS SECTION THAT IS BASED UPON ALLEGATIONS OR
18 TRANSACTIONS THAT ARE THE SUBJECT OF A CIVIL SUIT IN A COURT OF THIS
19 STATE OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN
20 WHICH THE STATE ___ IS ALREADY A PARTY.

21 (c) (I) A COURT SHALL DISMISS AN ACTION OR CLAIM BROUGHT
22 PURSUANT TO SUBSECTION (3) OF THIS SECTION IF THE ACTION PURSUED BY
23 THE PERSON IS BASED UPON SUBSTANTIALLY THE SAME ALLEGATIONS OR
24 TRANSACTIONS PUBLICLY DISCLOSED IN A CRIMINAL, CIVIL, OR
25 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
26 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
27 MEDIA, UNLESS:

1 (A) THE STATE ___ INTERVENES AND PROSECUTES THE ACTION
2 PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION;

3 (B) THE STATE ___ OPPOSES DISMISSAL; OR

4 (C) THE PERSON WHO BROUGHT THE ACTION IS AN ORIGINAL
5 SOURCE OF THE INFORMATION THAT IS THE BASIS FOR THE ACTION.

6 (II) AS USED IN THIS SUBSECTION (6)(c), "ORIGINAL SOURCE"
7 MEANS AN INDIVIDUAL WHO:

8 (A) PRIOR TO PUBLIC DISCLOSURE PURSUANT TO SUBSECTION
9 (6)(c)(I) OF THIS SECTION, HAS VOLUNTARILY DISCLOSED TO THE STATE ___
10 THE INFORMATION ON WHICH THE ALLEGATIONS OR TRANSACTIONS IN A
11 CLAIM ARE BASED; OR

12 (B) HAS KNOWLEDGE THAT IS INDEPENDENT OF AND MATERIALLY
13 ADDS TO THE PUBLICLY DISCLOSED ALLEGATIONS OR TRANSACTIONS AND
14 HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE ___ BEFORE
15 FILING AN ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION.

16 (7) **State ___ not liable for certain expenses.** THE STATE ___ IS
17 NOT LIABLE FOR EXPENSES THAT A PERSON INCURS IN BRINGING AN ACTION
18 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

19 (8) **Private action for retaliation.** (a) AS USED IN THIS
20 SUBSECTION (8), UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 (I) "CONFIDENTIAL INFORMATION" INCLUDES DOCUMENTS;
22 E-MAILS AND OTHER ELECTRONIC DATA; MEDICAL RECORDS; FINANCIAL
23 RECORDS; TRADE SECRET INFORMATION; INTELLECTUAL PROPERTY; OR
24 INFORMATION THAT IS SUBJECT TO AN EMPLOYMENT AGREEMENT,
25 CONFIDENTIALITY AGREEMENT, OR NONDISCLOSURE AGREEMENT OR FOR
26 WHICH THE PERSON WHO BROUGHT THE ACTION PURSUANT TO SUBSECTION
27 (3) OF THIS SECTION HAS A FIDUCIARY OBLIGATION TO MAINTAIN AS

1 CONFIDENTIAL. CONFIDENTIAL INFORMATION DOES NOT INCLUDE
2 INFORMATION THAT IS PROTECTED BY THE DEFENDANT'S
3 ATTORNEY-CLIENT PRIVILEGE UNLESS THE PRIVILEGE WAS WAIVED,
4 INADVERTENTLY OR OTHERWISE, BY THE PERSON WHO HOLDS THE
5 PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF
6 THE INFORMATION IS PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR
7 205.3 (d)(2), THE APPLICABLE COLORADO RULES OF PROFESSIONAL
8 CONDUCT, OR OTHERWISE.

9 (II) "LAWFUL ACTS" INCLUDES, BUT IS NOT LIMITED TO, THE
10 FOLLOWING:

11 (A) CONDUCTING OR ASSISTING WITH AN INVESTIGATION FOR,
12 INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO
13 BE FILED PURSUANT TO THIS SECTION, OR CONDUCTING OR ASSISTING WITH
14 AN INVESTIGATION WHEN THERE IS A REASONABLE BELIEF OF A POTENTIAL
15 VIOLATION OF THIS SECTION;

16 (B) MEETING WITH POTENTIAL OR RETAINED COUNSEL OR AGENTS
17 OR REPRESENTATIVES OF THE STATE ___ ABOUT THE MATTER THAT IS THE
18 SUBJECT OF AN ACTION FILED OR TO BE FILED PURSUANT TO THIS SECTION;

19 (C) PROVIDING THE INDIVIDUAL'S COUNSEL OR AGENTS OR
20 REPRESENTATIVES OF THE STATE ___ WITH CONFIDENTIAL INFORMATION;

21 OR

22 (D) FILING AN ACTION PURSUANT TO THIS SECTION.

23 (b) AN EMPLOYEE, CONTRACTOR, OR AGENT IS ENTITLED TO ALL
24 RELIEF NECESSARY TO MAKE THAT INDIVIDUAL WHOLE IF THE INDIVIDUAL
25 IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED, HARASSED,
26 INTIMIDATED, SUED, DEFAMED, BLACKLISTED, OR IN ANY OTHER MANNER
27 RETALIATED AGAINST OR DISCRIMINATED AGAINST IN THE TERMS AND

1 CONDITIONS OF THE INDIVIDUAL'S EMPLOYMENT, CONTRACT, BUSINESS, OR
2 PROFESSION BY THE DEFENDANT OR BY ANY OTHER PERSON BECAUSE OF
3 LAWFUL ACTS DONE BY THE INDIVIDUAL OR ASSOCIATED OTHERS IN
4 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
5 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
6 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
7 24-31-1203.

8 (c) (I) IF THE DISCLOSURE OF CONFIDENTIAL INFORMATION IS IN
9 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
10 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
11 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
12 24-31-1203, AN INDIVIDUAL HAS A PRIVILEGE TO DISCLOSE THE
13 CONFIDENTIAL INFORMATION TO:

14 (A) THE INDIVIDUAL'S COUNSEL;

15 (B) A PERSON WITH WHOM THE INDIVIDUAL HAS A STATUTORY OR
16 COMMON LAW PRIVILEGE; OR

17 (C) AN AGENT OR AUTHORIZED REPRESENTATIVE OF THE STATE.

18 (II) THE INDIVIDUAL'S DISCLOSURE OF CONFIDENTIAL
19 INFORMATION TO THE INDIVIDUAL'S COUNSEL OR TO AN AGENT OR
20 AUTHORIZED REPRESENTATIVE OF THE STATE DOES NOT CONSTITUTE A
21 WAIVER BY A DEFENDANT OF ANY RIGHT OR PRIVILEGE THAT THE
22 DEFENDANT MAY BE ENTITLED TO INVOKE.

23 (d) (I) AN INDIVIDUAL SEEKING RELIEF PURSUANT TO THIS
24 SUBSECTION (8) MAY SEEK RELIEF BY:

25 (A) FILING A MOTION IN THE ACTION BROUGHT PURSUANT TO
26 SUBSECTION (3) OF THIS SECTION; OR

27 (B) BRINGING A SEPARATE ACTION IN AN APPROPRIATE COURT OF

1 THE STATE FOR THE RELIEF PROVIDED PURSUANT TO THIS SUBSECTION (8).

2 (II) AN INDIVIDUAL WHO SEEKS RELIEF PURSUANT TO THIS
3 SUBSECTION (8) IS ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE
4 INDIVIDUAL WHOLE. THE RELIEF MUST INCLUDE, BUT IS NOT LIMITED TO:

5 (A) IF THE INDIVIDUAL IS AN EMPLOYEE, REINSTATEMENT WITH
6 THE SAME SENIORITY STATUS THE INDIVIDUAL WOULD HAVE HAD BUT FOR
7 THE DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON
8 THE BACK PAY;

9 (B) IF THE INDIVIDUAL IS A CONTRACTOR, SUBCONTRACTOR, OR
10 INDEPENDENT CONTRACTOR, REINSTATEMENT OF A CONTRACT OR
11 SUBCONTRACT THAT WAS CANCELED, NONRENEWED, OR MODIFIED
12 BECAUSE OF RETALIATION, WITH ALL COMPENSATION OR CONTRACTUAL
13 CONSIDERATION THAT THE INDIVIDUAL WOULD HAVE RECEIVED HAD THE
14 CONTRACT OR SUBCONTRACT NOT BEEN CANCELED, NONRENEWED, OR
15 MODIFIED; AND

16 (C) COMPENSATION FOR ANY SPECIAL DAMAGES SUSTAINED AS A
17 RESULT OF THE DISCRIMINATION OR RETALIATION, INCLUDING LITIGATION
18 COSTS AND REASONABLE ATTORNEY FEES.

19 (e) (I) THE COURT SHALL AWARD THE INDIVIDUAL NOT LESS THAN
20 THE DAMAGES DESCRIBED IN SUBSECTION (8)(d)(II) OF THIS SECTION IF A
21 DEFENDANT, EMPLOYER, OR OTHER PERSON RETALIATES AGAINST AN
22 INDIVIDUAL BY BRINGING ANOTHER ACTION AGAINST THE INDIVIDUAL FOR:

23 (A) ACTS LATER DETERMINED TO BE LAWFUL ACTS;

24 (B) DISCLOSURE OF CONFIDENTIAL INFORMATION TO COUNSEL OR
25 AN AGENT OR REPRESENTATIVE OF THE STATE _____ PURSUANT TO THIS
26 SUBSECTION (8);

27 (C) VIOLATING AN EMPLOYMENT CONTRACT, CONFIDENTIALITY

1 AGREEMENT, NONDISCLOSURE AGREEMENT, OR OTHER AGREEMENT; OR

2 (D) COMMITTING ANY OTHER TORT OR BREACH OF DUTY AND THE
3 COURT HEARING THE ACTION DETERMINES BY A PREPONDERANCE OF THE
4 EVIDENCE THAT THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT
5 THE LAWSUIT AGAINST THE INDIVIDUAL ██████ FOR THE PURPOSE OF
6 RETALIATING AGAINST THE INDIVIDUAL.

7 (II) IN ADDITION TO ANY OTHER REMEDY OR SHARE OF THE
8 PROCEEDS OF THE ACTION TO WHICH THE INDIVIDUAL IS ENTITLED
9 PURSUANT TO THIS SUBSECTION (8) AND REGARDLESS OF WHETHER THE
10 INDIVIDUAL IS DETERMINED TO BE ENTITLED TO SHARE IN THE PROCEEDS
11 OF THE ACTION OR CLAIM FILED PURSUANT TO SUBSECTION (3) OF THIS
12 SECTION, IN ADDITION TO ANY OTHER CONSEQUENTIAL DAMAGES
13 PERMITTED BY LAW, THE DAMAGES FOR A VIOLATION OF THIS SUBSECTION
14 (8)(e) MUST BE NOT LESS THAN:

15 (A) TWICE THE INDIVIDUAL'S ACTUAL ATTORNEY FEES AND COSTS
16 IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE LAWSUIT
17 AGAINST THE INDIVIDUAL IN A COURT IN THE STATE OF COLORADO; OR

18 (B) THREE TIMES THE INDIVIDUAL'S ACTUAL ATTORNEY FEES AND
19 COSTS IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE
20 LAWSUIT IN A JURISDICTION OUTSIDE OF COLORADO.

21 (f) (I) THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
22 SUBSECTION (3) OF THIS SECTION HAS JURISDICTION TO HEAR A PRIVATE
23 ACTION OR MOTION FOR RETALIATION BROUGHT PURSUANT TO THIS
24 SUBSECTION (8).

25 (II) UPON MOTION BY THE INDIVIDUAL, THE VENUE OF AN ACTION
26 FILED IN ANOTHER COURT OF THE STATE OF COLORADO AGAINST THE
27 INDIVIDUAL BY THE DEFENDANT, THE EMPLOYER OF THE PERSON WHO

1 BROUGHT THE ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION, OR
2 OTHER PERSON ARISING OUT OF THE SUBJECT MATTER OF THE ACTION
3 BROUGHT PURSUANT TO SUBSECTION (3) OF THIS SECTION MUST BE
4 CHANGED TO THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
5 SUBSECTION (3) OF THIS SECTION.

6 (9) **Discovery in other actions.** (a) IF A PERSON WHO BRINGS AN
7 ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION IS A PARTY TO OR
8 WITNESS IN AN ACTION OTHER THAN AN ACTION BROUGHT PURSUANT TO
9 SUBSECTION (3) OF THIS SECTION, REFERRED TO IN THIS SUBSECTION (9) AS
10 AN "OTHER ACTION", AND A PARTY IN THE OTHER ACTION SEEKS
11 DISCOVERY FROM THE PERSON OF INFORMATION ABOUT OTHER LAWSUITS,
12 WHICH DISCOVERY WOULD REQUIRE THE PERSON TO DISCLOSE
13 INFORMATION ABOUT AN ACTION FILED PURSUANT TO SUBSECTION (3) OF
14 THIS SECTION WHILE THAT ACTION IS STILL UNDER SEAL, THE PERSON
15 SHALL:

16 (I) WITHIN A REASONABLE TIME, NOTIFY THE STATE _____
17 INVESTIGATING THE ACTION BROUGHT PURSUANT TO SUBSECTION (3) OF
18 THIS SECTION OF THE PENDING DISCOVERY REQUEST; AND

19 (II) RESPOND TO THE DISCOVERY REQUEST BY STATING ONLY THAT
20 THE MATTER IS CONFIDENTIAL, WITHOUT FURTHER ELABORATION, AND
21 SHALL MAINTAIN THAT RESPONSE UNTIL THE STATE _____ ELECTS TO
22 PROCEED OR NOT PROCEED WITH THE ACTION BROUGHT PURSUANT TO
23 SUBSECTION (3) OF THIS SECTION OR UNTIL THE COURT LIFTS THE SEAL.

24 (b) IF NECESSARY, IN ANY OTHER ACTION, A PERSON WHO
25 BROUGHT THE ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION OR
26 THE ATTORNEY GENERAL MAY FILE AN EX PARTE MOTION, IN CAMERA AND
27 UNDER SEAL, SEEKING A PROTECTIVE ORDER OR AN EXTENSION OF TIME

1 FOR THE PERSON TO RESPOND TO A DISCOVERY REQUEST. IF A PARTY IN
2 THE OTHER ACTION MOVES TO COMPEL AN ANSWER TO THE DISCOVERY,
3 THE PERSON WHO BROUGHT THE ACTION PURSUANT TO SUBSECTION (3) OF
4 THIS SECTION SHALL FILE, EX PARTE AND IN CAMERA, A RESPONSE TO THE
5 MOTION TO COMPEL, IN WHICH THE ATTORNEY GENERAL ___ MAY JOIN.
6 THE RESPONSE TO THE MOTION TO COMPEL MUST REMAIN UNDER SEAL
7 UNTIL SUCH TIME AS THE STATE ___ ELECTS TO PROCEED OR NOT PROCEED
8 WITH THE ACTION OR UNTIL SUCH TIME AS THE COURT LIFTS THE SEAL.

9 (c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (9) TO
10 THE CONTRARY, INFORMATION ABOUT AN ACTION FILED PURSUANT TO
11 SUBSECTION (3) OF THIS SECTION THAT IS PROTECTED BY THE
12 DEFENDANT'S ATTORNEY-CLIENT PRIVILEGE IS NOT DISCOVERABLE IN ANY
13 OTHER ACTION UNLESS THE PRIVILEGE WAS WAIVED, INADVERTENTLY OR
14 OTHERWISE, BY THE PERSON WHO HOLDS THE PRIVILEGE; AN EXCEPTION
15 TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF THE INFORMATION IS
16 PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR 205.3 (d)(2), THE
17 APPLICABLE COLORADO RULES OF PROFESSIONAL CONDUCT, OR
18 OTHERWISE.

19 **24-31-1205. False claims action procedures - limitation on**
20 **action - standard of proof.** (1) A CIVIL ACTION PURSUANT TO SECTION
21 24-31-1204 MAY NOT BE BROUGHT AFTER THE LATER OF:

22 (a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE
23 VIOLATION OF SECTION 24-31-1203 IS COMMITTED OR THE DATE ON WHICH
24 THE LAST IN A SERIES OF SUCH ACTS OR PRACTICES OCCURRED,
25 WHICHEVER IS LATER; OR

26 (b) MORE THAN THREE YEARS AFTER THE DATE ON WHICH FACTS
27 MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD

1 HAVE BEEN KNOWN BY THE OFFICIAL OF THE STATE ___ CHARGED WITH
2 RESPONSIBILITY TO ACT IN THE CIRCUMSTANCES, BUT IN NO EVENT MORE
3 THAN TEN YEARS AFTER THE DATE ON WHICH THE VIOLATION OF SECTION
4 24-31-1203 WAS COMMITTED.

5 (2) (a) IF THE STATE ___ ELECTS TO INTERVENE AND PROCEED WITH
6 AN ACTION BROUGHT PURSUANT TO SECTION 24-31-1204, THE STATE ___
7 MAY FILE ITS OWN COMPLAINT OR AMEND THE ORIGINAL COMPLAINT TO:

8 (I) CLARIFY AND ADD DETAIL, AND ADD ADDITIONAL DEFENDANTS,
9 TO THE CLAIMS IN WHICH THE STATE ___ IS INTERVENING; AND

10 (II) ADD ANY ADDITIONAL CLAIMS AND DEFENDANTS WITH
11 RESPECT TO WHICH THE STATE ___ CONTENDS IT IS ENTITLED TO RELIEF.

12 (b) FOR STATUTE OF LIMITATIONS PURPOSES, ANY PLEADINGS BY
13 THE STATE ___ RELATE BACK TO THE FILING DATE OF THE ORIGINAL
14 COMPLAINT FILED BY A PERSON PURSUANT TO SECTION 24-31-1204 (3), TO
15 THE EXTENT THAT THE STATE'S ___ CLAIM ARISES OUT OF THE CONDUCT,
16 TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET
17 FORTH, IN THE ORIGINAL COMPLAINT.

18 (3) IN AN ACTION BROUGHT PURSUANT TO SECTION 24-31-1204,
19 THE STATE OR PERSON WHO BROUGHT THE ACTION PURSUANT TO SECTION
20 24-31-1204 (3) MUST PROVE ALL ESSENTIAL ELEMENTS OF THE CAUSE OF
21 ACTION, INCLUDING DAMAGES, BY A PREPONDERANCE OF THE EVIDENCE.

22 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
23 COLORADO RULES OF CRIMINAL PROCEDURE, OR THE COLORADO RULES OF
24 EVIDENCE, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE ___ IN A
25 CRIMINAL PROCEEDING CHARGING FRAUD OR FALSE STATEMENTS,
26 WHETHER UPON A VERDICT AFTER TRIAL OR UPON A PLEA OF GUILTY OR
27 NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM DENYING THE

1 ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION THAT INVOLVES THE
2 SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING AND THAT IS
3 BROUGHT PURSUANT TO SECTION 24-31-1204.

4 **24-31-1206. Jurisdiction.** AN ACTION DESCRIBED IN THIS PART 12
5 MAY BE BROUGHT IN ANY JUDICIAL DISTRICT IN WHICH THE DEFENDANT
6 OR, IN THE CASE OF MULTIPLE DEFENDANTS, ANY ONE DEFENDANT CAN BE
7 FOUND, RESIDES, OR TRANSACTS BUSINESS, OR IN WHICH AN ACT
8 PROSCRIBED BY SECTION 24-31-1203 OCCURRED. A PERSON BRINGING AN
9 ACTION PURSUANT TO THIS PART 12 SHALL FILE THE COMPLAINT IN A
10 DISTRICT COURT OR A FEDERAL COURT WITH JURISDICTION OVER THE
11 ACTION AND SHALL NOT FILE THE COMPLAINT IN ANY OTHER COURT. THE
12 APPROPRIATE DISTRICT COURT SHALL ISSUE A SUMMONS AS REQUIRED BY
13 THE COLORADO RULES OF CIVIL PROCEDURE AND SERVE THE SUMMONS AT
14 ANY PLACE.

15 **24-31-1207. False claims civil investigation demands.**

16 (1) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE
17 THAT ANY PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED
18 IN OR IS ENGAGING IN ANY VIOLATION OF SECTION 24-31-1203, THE
19 ATTORNEY GENERAL MAY:

20 (a) REQUEST THE PERSON FILE A STATEMENT OR REPORT IN
21 WRITING UNDER OATH OR OTHERWISE, ON FORMS PRESCRIBED BY THE
22 ATTORNEY GENERAL, AS TO ALL FACTS AND CIRCUMSTANCES CONCERNING
23 THE ALLEGED VIOLATIONS BY THE PERSON AND ANY OTHER DATA AND
24 INFORMATION THE ATTORNEY GENERAL DEEMS NECESSARY; EXCEPT THAT
25 THE PERSON IS NOT REQUIRED TO DISCLOSE ANY INFORMATION THAT IS
26 PROTECTED BY THE PERSON'S ATTORNEY-CLIENT PRIVILEGE UNLESS THE
27 PRIVILEGE WAS WAIVED, INADVERTENTLY OR OTHERWISE, BY THE PERSON

1 WHO HOLDS THE PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR
2 DISCLOSURE OF THE INFORMATION IS PERMITTED BY AN ATTORNEY
3 PURSUANT TO 17CFR 205.3 (d)(2), THE APPLICABLE COLORADORULES OF
4 PROFESSIONAL CONDUCT, OR OTHERWISE.

5 (b) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE
6 ALLEGED VIOLATIONS;

7 (c) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, OR ANY
8 NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER THE
9 ATTORNEY GENERAL DEEMS NECESSARY;

10 (d) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY
11 GENERAL, OF ANY NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT,
12 OR PAPER EXAMINED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION,
13 WHICH COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF THE ORIGINALS
14 THEREOF IN AN ACTION BROUGHT PURSUANT TO THIS PART 12; AND

15 (e) PURSUANT TO ANY ORDER OF ANY DISTRICT COURT, IMPOUND
16 ANY SAMPLE OF PROPERTY THAT IS MATERIAL TO ANY ALLEGED VIOLATION
17 OF THIS PART 12 AND RETAIN THE SAME IN THE ATTORNEY GENERAL'S
18 POSSESSION UNTIL COMPLETION OF ALL PROCEEDINGS UNDERTAKEN
19 PURSUANT TO THIS PART 12. A DISTRICT COURT SHALL NOT ISSUE AN
20 ORDER DESCRIBED IN THIS SUBSECTION (1)(e) WITHOUT GIVING FULL
21 OPPORTUNITY TO THE ACCUSED TO BE HEARD AND UNLESS THE ATTORNEY
22 GENERAL HAS PROVEN BY CLEAR AND CONVINCING EVIDENCE THAT THE
23 ORDER WILL NOT IMPAIR THE BUSINESS ACTIVITIES OF THE PERSON TO
24 WHOM THE ORDER IS DIRECTED.

25 (2) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO
26 BELIEVE THAT A PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS
27 ENGAGED IN OR IS ENGAGING IN A VIOLATION OF SECTION 24-31-1203, THE

1 ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO REQUIRE THE
2 ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS,
3 ADMINISTER OATHS, CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR
4 INQUIRY, AND PRESCRIBE SUCH FORMS AS MAY BE NECESSARY TO
5 ADMINISTER THIS PART 12.

6 (3) THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO ANY
7 PUBLIC OR PRIVATE CORPORATION OR PARTNERSHIP OR ASSOCIATION OR
8 GOVERNMENTAL ENTITY TO PRODUCE WITNESSES TO APPEAR AND GIVE
9 ORAL TESTIMONY AT INVESTIGATIVE HEARINGS. THE SUBPOENAS MAY
10 DESIGNATE WITH REASONABLE PARTICULARITY THE MATTERS ON WHICH
11 EXAMINATION IS REQUESTED. IN RESPONSE TO THE SUBPOENA, THE ENTITY
12 SHALL DESIGNATE ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING
13 AGENTS, OR DESIGNATE OTHER PERSONS, TO TESTIFY ON ITS BEHALF.

14 (4) A NOTICE OR SUBPOENA MAY BE SERVED IN THE MANNER
15 PRESCRIBED BY LAW OR AS PROVIDED IN RULE 4 OF THE COLORADO RULES
16 OF CIVIL PROCEDURE.

17 (5) (a) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A
18 SUBPOENA ARE LOCATED OUTSIDE THIS STATE, THE PERSON SHALL EITHER:

19 (I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL EITHER
20 ELECTRONICALLY OR AT A CONVENIENT LOCATION WITHIN THIS STATE; OR

21 (II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE
22 ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE, TO
23 EXAMINE THE RECORDS AT THE PLACE WHERE THEY ARE MAINTAINED.

24 (b) THE ATTORNEY GENERAL MAY DESIGNATE REPRESENTATIVES,
25 INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS
26 ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY
27 GENERAL.

1 (6) IF ANY PERSON FAILS TO COOPERATE WITH ANY INVESTIGATION
2 PURSUANT TO THIS SECTION OR FAILS TO OBEY ANY SUBPOENA ISSUED
3 PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY APPLY TO THE
4 APPROPRIATE DISTRICT COURT FOR AN APPROPRIATE ORDER TO
5 EFFECTUATE THE PURPOSES OF THIS PART 12. AT THE REQUEST OF THE
6 ATTORNEY GENERAL, THE APPLICATION MAY BE FILED IN CAMERA AND
7 KEPT CONFIDENTIAL TO MAINTAIN THE CONFIDENTIALITY OF THE
8 ATTORNEY GENERAL'S INVESTIGATION. THE APPLICATION MUST STATE
9 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE ORDER
10 APPLIED FOR IS NECESSARY TO INVESTIGATE A VIOLATION OF THIS PART 12.
11 IF THE COURT IS SATISFIED THAT REASONABLE GROUNDS EXIST, THE COURT
12 IN ITS ORDER MAY:

13 (a) GRANT APPROPRIATE INJUNCTIVE RELIEF;

14 (b) REQUIRE ATTENDANCE OF OR THE PRODUCTION OF DOCUMENTS
15 BY THE PERSON, OR BOTH;

16 (c) GRANT OTHER OR FURTHER RELIEF AS MAY BE NECESSARY TO
17 OBTAIN COMPLIANCE BY THE PERSON.

18 **24-31-1208. Rule-making.** THE ATTORNEY GENERAL MAY
19 PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PART 12.

20 **24-31-1209. Use of recoveries - false claims recovery cash fund**
21 **- creation.** (1) THE STATE TREASURER SHALL TRANSFER ALL PROCEEDS
22 RETAINED BY THE STATE FROM A FALSE CLAIMS ACTION BROUGHT
23 PURSUANT TO THIS PART 12 TO THE FALSE CLAIMS RECOVERY CASH FUND,
24 WHICH IS HEREBY CREATED.

25 (2) ANY MONEY IN THE FUND NOT EXPENDED FOR THE PURPOSE OF
26 THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED
27 BY LAW. ALL INTEREST AND INCOME DERIVED FROM INVESTMENT AND

1 DEPOSIT OF MONEY IN THE FUND SHALL BE CREDITED TO THE FUND.

2 (3) (a) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
3 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR
4 NECESSARY ACTUAL COSTS OF CARRYING OUT ITS DUTIES PURSUANT TO
5 THIS PART 12.

6 (b) (I) WHEN PROCEEDS RETAINED BY THE STATE FROM A FALSE
7 CLAIMS ACTION ARE DEPOSITED INTO THE FUND, THE ATTORNEY GENERAL
8 SHALL DETERMINE THE AMOUNT OF THE PROCEEDS THAT SHOULD REMAIN
9 IN THE FUND FOR USE BY THE DEPARTMENT FOR THE COSTS OF CARRYING
10 OUT ITS DUTIES PURSUANT TO THIS PART 12 AND THE AMOUNT OF ANY
11 PROCEEDS DEPOSITED INTO THE FUND THAT ARE ATTRIBUTABLE TO A
12 POLITICAL SUBDIVISION.

13 (II) IF THE AMOUNT OF THE PROCEEDS IS EQUAL TO OR EXCEEDS
14 THE AMOUNT OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE
15 ATTORNEY GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER
16 TO THE ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID AN
17 AMOUNT EQUAL TO THE FALSE CLAIM. IF ALL OR PART OF THE PROCEEDS
18 ARE ATTRIBUTABLE TO A POLITICAL SUBDIVISION, THE ATTORNEY
19 GENERAL SHALL DIRECT THE TREASURER TO PAY TO THE POLITICAL
20 SUBDIVISION, AS DESCRIBED IN SUBSECTION (3)(c) OF THIS SECTION, AN
21 AMOUNT EQUAL TO THE FALSE CLAIM.

22 (III) IF THE AMOUNT OF THE PROCEEDS IS LESS THAN THE AMOUNT
23 OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE ATTORNEY
24 GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER TO THE
25 ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID A PRO-RATED
26 AMOUNT BASED ON THE ACTUAL RECOVERY. IF ALL OR PART OF THE
27 PROCEEDS ARE ATTRIBUTABLE TO A POLITICAL SUBDIVISION, THE

1 ATTORNEY GENERAL SHALL DIRECT THE TREASURER TO PAY TO THE
2 POLITICAL SUBDIVISION, AS DESCRIBED IN SUBSECTION (3)(c) OF THIS
3 SECTION, A PRO-RATED AMOUNT BASED ON THE ACTUAL RECOVERY.

4 (IV) FOR THE PURPOSES OF A FALSE CLAIMS ACTION INVOLVING A
5 VIOLATION OF SECTION 24-31-1203(1)(g), THE RELEVANT FUND IS THE
6 UNEMPLOYMENT COMPENSATION FUND ESTABLISHED IN SECTION
7 8-77-101.

8 (c) NO LATER THAN SEVEN DAYS AFTER THE ATTORNEY GENERAL
9 DIRECTS THE STATE TREASURER TO MAKE A PAYMENT TO A POLITICAL
10 SUBDIVISION PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE
11 STATE TREASURER SHALL ISSUE A WARRANT TO BE PAID UPON DEMAND
12 FROM THE FUND TO THE POLITICAL SUBDIVISION IN THE AMOUNT SPECIFIED
13 BY THE ATTORNEY GENERAL.

14 (4) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
15 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
16 AND SHALL NOT BE CREDITED OR TRANSFERRED TO ANOTHER FUND.

17 **24-31-1210. No limitations on common law authority -**
18 **medicaid fraud control.** NOTHING IN THIS PART 12 AFFECTS, LIMITS, OR
19 SUPPLANTS THE COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL OR
20 THE DEPARTMENT TO INVESTIGATE AND PROSECUTE MEDICAID FRAUD
21 PURSUANT TO PART 8 OF THIS ARTICLE 31.

22 **24-31-1211. False claims act report.** (1) ON OR BEFORE
23 JANUARY 15, 2024, AND ON OR BEFORE EACH JANUARY 15 THEREAFTER,
24 THE ATTORNEY GENERAL SHALL SUBMIT A WRITTEN REPORT TO THE HOUSE
25 OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE, THE
26 HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE, THE SENATE
27 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, AND THE SENATE

1 JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, CONCERNING
2 CLAIMS BROUGHT PURSUANT TO THIS PART 12 DURING THE PREVIOUS
3 FISCAL YEAR. THE REPORT MUST INCLUDE, BUT IS NOT LIMITED TO:

4 (a) THE NUMBER OF ACTIONS BROUGHT BY THE ATTORNEY
5 GENERAL AND THE DISPOSITION OF THE ACTIONS;

6 (b) THE AMOUNT OF PROCEEDS RECOVERED BY THE STATE
7 THROUGH SETTLEMENT OR JUDGMENT IN AN ACTION BROUGHT PURSUANT
8 TO THIS PART 12, INCLUDING:

9 (I) THE CASE NUMBER AND PARTIES FOR EACH ACTION IN WHICH
10 PROCEEDS WERE RECOVERED;

11 (II) THE AMOUNT OF PROCEEDS RECOVERED IN EACH CASE,
12 CATEGORIZED BY THE AMOUNT RECOVERED AS DAMAGES, PENALTIES, AND
13 LITIGATION COSTS; AND

14 (III) IF APPLICABLE, THE PERCENTAGE OF THE PROCEEDS
15 RECOVERED AND THE TOTAL AMOUNT AWARDED TO A PRIVATE PERSON
16 WHO BROUGHT THE ACTION.

17 (c) THE NUMBER OF ACTIONS BROUGHT BY A PERSON OTHER THAN
18 THE ATTORNEY GENERAL IN WHICH THE ATTORNEY GENERAL DID NOT
19 INTERVENE, WHETHER THE ACTIONS WERE CONTINUED BY THE OTHER
20 PERSON, AND THE DISPOSITION OF THE ACTIONS;

21 (d) THE AMOUNT OF PROCEEDS, INCLUDING ANY LITIGATION COSTS
22 AND ATTORNEY FEES, RECOVERED THROUGH SETTLEMENT OR JUDGMENT
23 IN ACTIONS BROUGHT BY A PERSON OTHER THAN THE ATTORNEY GENERAL;
24 AND

25 (e) THE AMOUNT EXPENDED BY THE STATE FOR INVESTIGATION
26 AND LITIGATION OF FALSE CLAIMS PURSUANT TO THIS PART 12 AND ALL
27 OTHER COSTS RELATED TO THIS PART 12.

1 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
2 REPORTING REQUIREMENT DESCRIBED IN THIS SECTION CONTINUES
3 INDEFINITELY.

4 **SECTION 3.** In Colorado Revised Statutes, 2-3-109, **add** (3) as
5 follows:

6 **2-3-109. Emergency reports.** (3) IF THE STATE AUDITOR IN THE
7 COURSE OF AN AUDIT FINDS EVIDENCE OF APPARENTLY FALSE CLAIMS
8 RELATED TO PUBLIC FUNDS OR PROPERTY, THE STATE AUDITOR SHALL
9 IMMEDIATELY REPORT SUCH TRANSACTIONS TO THE COMMITTEE AND
10 SHALL FILE A WRITTEN COPY OF THE REPORT WITH THE ATTORNEY
11 GENERAL.

12 **SECTION 4.** In Colorado Revised Statutes, 2-3-110.5, **amend**
13 (3)(a)(II) as follows:

14 **2-3-110.5. Fraud hotline - investigations - confidentiality -**
15 **access to records - definitions.** (3) (a) (II) The state auditor shall
16 forward all hotline calls alleging fraud by a medicaid recipient to the
17 department of health care policy and financing, ~~and~~ all calls alleging
18 fraud by a medicaid provider or contractor to the medicaid fraud control
19 unit of the office of the attorney general, AND ALL CALLS ALLEGING FRAUD
20 IN VIOLATION OF THE "COLORADO FALSE CLAIMS ACT", PART 12 OF
21 ARTICLE 31 OF TITLE 24, TO THE ATTORNEY GENERAL UNLESS THE
22 ALLEGATION RELATES TO A STATE EMPLOYEE IN THE PERFORMANCE OF
23 THE EMPLOYEE'S DUTIES.

24 **SECTION 5. Appropriation.** For the 2022-23 state fiscal year,
25 \$13,568 is appropriated to the legislative department for use by the office
26 of the state auditor. This appropriation is from the general fund. The
27 office may use this appropriation to implement this act.

1 **SECTION 6. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly; except
4 that, if a referendum petition is filed pursuant to section 1 (3) of article V
5 of the state constitution against this act or an item, section, or part of this
6 act within such period, then the act, item, section, or part will not take
7 effect unless approved by the people at the general election to be held in
8 November 2022 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.