

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

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.

**SENATE SPONSORSHIP**

**Winter,**

**House Committees**

Judiciary  
Finance  
Appropriations

**Senate Committees**

Judiciary  
Finance  
Appropriations

**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.*

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 █

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.